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Francis Gastrell

THE
Bishop of C H E S T E R's

C A S E,

With Relation to the
W A R D E N S H I P

O F

M A N C H E S T E R.

In which it is shewn, that no other

D E G R E E S

But such as are taken in the

U N I V E R S I T Y,

Can be deemed

L E G A L Q U A L I F I C A T I O N S

For any

Ecclesiastical Preferment

I N

E N G L A N D.

C A M B R I D G E.

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СНТ

Dishop of CHERKESIA

ЕСАГО

With Report of the

ПІНІАНІЯ ВАЛЯ

то

ЯЗІВНОМ

із земельної землі

ЕНЕРГІД

Без земельної землі

УТІЯНИЙ



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THE PREFACE

THE

P R E F A C E.

WHEN I drew up the following Case, I never imagined that I should have been engaged in any Controversy with the Crown about it. Because, whatever I have offered in maintenance of that Ancient and Noble Privilege, claimed by our Universities, to confer Degrees, is urged in Defence of the King's Prerogative also; from whence only that Power can be deriv'd; and in support of Royal Charters, the true meaning and intention of which was certainly, in the Opinion of those Princes that granted them, and of all the Lawyers that ever read them, the same that I contend for.

Twas a great while before it was judged proper to interest the Crown in this Affair. And, when a Suit was ordered, I appeal to all the Officers concerned in the Prosecution of it, whether, in all the Steps I took, I did not shew a just regard to the Crown, and a great desire to avoid such an unhappy Contest by any reasonable Expedients; tho' I was very ready to try the Cause upon any other foot. And at last, when a publick Decision was thought necessary, and it could not be expected that the Universities should freely give up what they look'd upon to be their undoubted Right; it was with great uneasiness, and not till after assurance given that a Legal Defence in this case should not be construed as an instance of Undutifulness or Disaffection in those Learned Bodies; that I undertook to prove in a Court of Justice what I have here offered to the consideration of Men of all Professions.

As to the Archbishop of Canterbury; I have no design to rob his See of any Privileges belonging to it. He may give as many Titles, and bestow as many Honours as the Pope himself does, provided they

The P R E F A C E.

are not admitted into the same rank with those conferred by the Favour of the Crown, and they do not challenge any place in the construction of Charters and Acts of Parliament. Nor is it my intention to deny the present Archbishop any thing that his Predecessors enjoyed, having always been desirous to treat Him with a particular Respect. Only in this thing, wherein I am persuaded that He has exceeded former Examples, I think my self obliged to prove it, and I have his Grace's leave so to do.

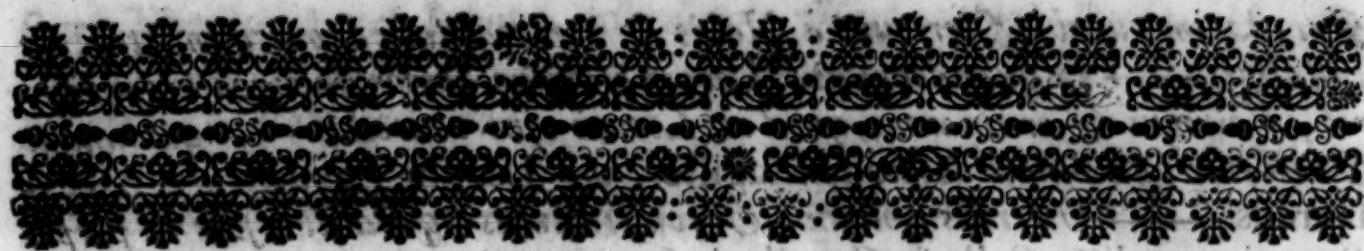
I must desire likewise to set my self right in the opinion of the World, with regard to that Gentleman who has been the occasion of this Dispute; and I cannot do it more effectually than by telling them what I told him when I first scrupled to admit the Archbishop's Degree for a Qualification, viz. "That, being in all respects qualified to take his Degree regularly in the University, he might proceed that way, without any fear of being denied; but, if he desired any Favour, usually indulged to other Persons, that I would endeavour to obtain it for him; and I did not doubt but the University would readily grant it". Upon what Views and Motives Mr. Peplo declined taking his Bachelor of Divinity's Degree in Oxford, when he had actually prepared the best part of the Exercise required in order to it, I cannot tell; but sure I am that he might have done it without burting the Archbishop's Pretensions; because there are living Precedents of Persons who have taken the same Degrees in Oxford, which had been given them before at Lambeth.

I have nothing farther to add in relation to the Case now published, but that it has been approved by so many eminent Men of Learning and Judgment, several of which have great skill in Antiquities, and others great Knowledge and Experience in the Laws of the Realm, that I am sure the Cause now depending cannot be adjudged Frivolous, or Litigious, whatever other sentence may be pass'd upon it.

T H E

E R R A T A.

P 10 l. 11. read. vacare. p. 2. l. 39. r. registrantur. p. 3. l. 2. r. officium &. p. 4. l. 3. from the bottom r. such a right. p. 11. l. 16. r. Legates. ibid. l. 17. r. Archbishops. p. 13. l. 6. from the bottom r. sedis. p. 18. l. 4. r. iii. p. 19. l. 28. r. every. p. 26. l. 21. r. than. p. 27. l. 39. r. words are these. p. 28. l. 17. r. Registrum. p. 47. l. 4. from the bottom r. to be of.



THE
BISHOP of CHESTER's

CASE

With Relation to the

WARDENSHIP of *Manchester, &c.*

The last CHARTER of Foundation of *Manchester College*, granted by *Charles the First*, bears date Oct. 2. A. D. 1636. in which are these Words, *viz.*

VO L U M U S, Concedimus, & Ordinamus, quod virtute harum Literarum Patentium in perpetuum sit & erit in Villa de Manchester — Unum Collegium perpetuis futuris temporibus duraturum — Ac Collegium illud de uno Guardiano, Presbytero, & sacre Theologiæ ad minus Baccalaureo, vel Legum Canonicarum & Civilium Baccalaureo; & quatuor Sociis, Presbyteris, Artium ad minus Magistris, vel Legum (ut prædictitur) Baccalaureis — erigi, ordinari, & stabiliri decrevimus — Volumus etiam, constitui- mus, & ordinamus per præsentes, quod quandocunque & quotiescumque Officium & Locum Guardiani in posterum vacare contigerit, in Locum ejus concedat & sit Guardianus quicunque Presbyter, & ad minus sacre Theologiæ, vel Jurium (ut prædictitur) Baccalaureus: Qui à Nobis, Hæredibus, &c. — per Literas, magno Sigillo nostro, Hæredum, &c. munitas nominabitur — Præsentatione factâ Episcopo Cestriensi —

*Qui statim curabit Clericum à Nobis si non natus canonice institutus
installari — & quandocumque Locum aliqui Sociorum vacare conve-
rit, Volumus & ordinamus, quod in Locum eus concedat — quicunque
Presbyter, ad minus Artium Magister, vel Legum fuit dicitur) Bac-
laureus — Ulterius volumus & constituimus, quod duo sint in perpe-
tuum in praedicto Collegio Capellani, seu Vicarii, ad minus Artium Bac-
calaurei, & Clerici — Volumus etiam & concedimus, quod Episcopus
Cestriensis & Successores sui habeant potestatem & licentiam visitandi di-
ctum Collegium.*

In the Charter granted by Queen Elizabeth, Anno 1578. (from whence this is, for the most part, transcribed) the first incorporating Clause runs thus: (viz.) *Collegium illud de uno Guardiano, Presbytero,
& sacre Theologiae ad minus Baccalaureo; & quatuor Sociis, Presbyte-
ris — ad minus Artium Baccalaureis — fundari & stabiliri decrevimus.*

Sam. Peplo, Master of Arts of Oxford, having obtained a Grant of the Wardenship of this College, in order to qualify himself for it according to the Charter, procures a Faculty from the Archbishop of Canterbury for the Degree of Bachelor in Divinity; the Tenor of which Faculty is as follows; viz.

GULIELMUS, &c. — Ad infra scripta Autilitate Parliamenti Anglie legitime fulcitus — Sam. Peplo, Clerico, & in Artibus Magistro Salutem & Gratiam.

*Quum in Scholis ritè institutis laudabilis iste mos & consuetudo inale-
verit, ut qui in aliqua Scientia liberali cum laude & profectu desuda-
verint, insigni aliquo Dignitatis gradu decorarentur: Quum etiam Can-
tuarienses Archiepiscopi (publicâ Legum autoritate muniti) praedictos
Gradus & Honoris titulos in homines benemerentes conferendi potestate
gaudeant, & jamdudum gavisissim, (prout ex Libro authentico de Taxan-
dis Facultatibus, Parliamenti autoritate confirmato, plenus appareat)
Nos igitur praedicta auctoritate freti, & exemplum Antecessorum nostro-
rum imitati, Te — sacre Theologiae Baccalaurei gradu & titulo insig-
niri decrevimus, & quantum in Nobis est, jura regni patruntur, Te-
nore presentium, Te in sacra Theologia Baccalaureum actualem crea-
mus, pariterque in numerum Baccalaureorum sacre Theologiae hujus regi-
ni aggregamus, Juramentis infra scriptis prius per Nos vel Magistrum
Facultatum, de Te exactis, & a Te juratis —*

Ego Sam. Peplo, &c.

[Here follow the Oaths of Allegiance and Supremacy in English.]

*Proviso autem, quod haec Literæ tibi non proficiant, nisi registrantur,
& subscribantur per Clericum — in Cancelleriā.*

At the Head of this Faculty, and sewed to it with Thread, is a
distinct Piece of Parchment, in which are these Words: viz.

*Cum Seren. Princeps, &c. — Sam. Peplo Artium Magistrum, Vice-
arium de Preston, propter inconcussam in se fidem, insignemque contra
Rebelles præstatam ibidem operam, Guardianum Collegii apud Man-
chester — constituere dignatus sit: Cumque Provisum sit per ejusdem
Collegii statuta ut — Guardianus sit ad minus gradu Baccalaureatus in
sacra*

sacrâ Theologiâ vel Jurium insignitus; Nos, ut erga Regiam Majestatem officium pietatem, & in viros de Repub. & Ecclesia bene meritos favorem testatum faceremus.

GULIELMUS, &c. — Salutem & Gratiam

By the Authority of Parliament insisted upon in this Instrument, is ^{25 H. 8. cap. 21.} understood an *Act made 25 H. 8. cap. 21.* But, there being no mention at all of Degrees in this Act, nor anything that, upon a careful Perusal of the Act, can lead any one to think of Degrees; the Power now challenged by the Archbishop, of conferring Degrees, must be couched under the General Powers there conveyed to him, which are ranked under these two Heads, *viz.*

§. 3.

1. "All manner of Licenses, Dispensations, Faculties, &c. as heretofore hath been used and accustomed to be had at the See of Rome — or of any Person by Authority of the same —

2. "All other Licenses, Dispensations, &c. — For all such Causes and Matters as shall be convenient and necessary to be had, for the Honour and Safety of the King and the Wealth and Profit of the Realm,

Under which of these Heads the Power of conferring Degrees is to be placed, it is not easy to conjecture from the Words of the Act; but, special Reference being had in the Body of the Faculty to a Tax-Book, said to be confirmed by Parliament, that necessarily confines it to the First Head of such Faculties, &c. as had been used and accustomed to be had and obtained at the See of Rome. For it is Enacted, "That there shall be two Books made and drawn of one Tenor; in which shall be contained the Taxes of all *customable* Dispensations, Faculties, Licenses, and other Writings wont to be sped at Rome" — And Bishop Gibson in his Notes upon this Act founds the Archbishop's Right of conferring Degrees of all kinds wholly upon this: "That in the said Book of Taxation, among the other Heads in which Faculties had been customarily grantable, and were now made grantable by the Archbishop, in virtue of this Act, are found the Two that follow, *viz.*

§. 11.

"*Creatio Doctorum in quacunque facultate, 4 l.*
" *Creatio aliorum Graduorum in quacunque facultate, 4 l.*

[It should be
34.]

And that a Faculty for a Degree (if any such be made grantable by this Act) must be reckoned among the *customable* Faculties, is plain from another Part of the Act, where the Archbishop is restrained from granting any Faculty in any Case *not accustomed*, without License from the King, or Council.

§. 5.

This being then the sole Ground and Foundation of the Archbishop's Power; in order to clear up the Matter in dispute, it will be proper to consider the Nature and Design of the Act; to examine the Authority of the Tax-Book referred to in the Faculty; to enquire what the Practice has been with relation to Degrees since the making of this Act; and to see of what Value and Effect Degrees conferred by the Archbishop are.

With relation to the Nature and Design of this Act, these Observations occur to me.

Preamble.

1. The only Reasons alledged for making the Act are;
“To deliver his Majesty’s Subjects from intolerable Exactions claimed
“by the See of Rome, and from grievous and excessive Charges in obtain-
“ing such Licenses, Dispensations, &c. as they wanted:

§. 3. “And to vest a Power in some Person residing within this Realm,
“to grant all such Dispensations, Faculties, &c. as were convenient
“and necessary to be had, for the Honour and Surety of the King, and
“the Wealth and Profit of the Realm.

These Words, *convenient* and *necessary*, are proper to be noted; because, by the whole Tenour of the Act, it appears, that *all manner of Dispensations*, whether such as had been *customable*, or such as should be granted hereafter, were to come under these Characters.

§. 17. Now the bestowing Degrees in Learning could never be reckoned among the Impositions and Exactions of the Pope; nor were Degrees such Licenses and Dispensations, as His Majesty’s Subjects wanted to obtain from the See of Rome; because no body ever had any good, just, or reasonable Cause to have recourse to Rome for them; there being always a standing Power within this Realm, from whence they might be obtained: Whereas no other Faculties, &c. granted by the Archbishop, in virtue of this Act, could then be procured any other way than by the Authority of the See of Rome. And it was not likely that any Persons would be at an excessive Charge to obtain Degrees from Rome, which they might take at a cheaper rate here at home.

Neither can I persuade my self, that the Pope’s Power of conferring Degrees ever was, or the Archbishop’s can now be thought, convenient and necessary for the Honour and Surety of the King, and the Wealth and Profit of the Realm, when such regard has been constantly paid to Academical Degrees, by All our Kings, Parliaments, and Convocations. And when, as far as my Enquiries have reached, there is no Footstep to be found in any Law-Book whatever, of the least Esteem, or Allowance, of any Degrees taken any other way than in some University;

And that I have here given a true Account of the Meaning and Design of the Act, is further manifest from the Title under which it is repealed by the 1st and 2^d of Phil. and Mary, and revived 1 Eliz. i. viz. An Act concerning the Exoneration of the King’s Subjects from Exactions and Impositions before that time paid to the See of Rome, and for having Licences and Dispensations within this Realm, without suing further for the same; which I find to have been the ancient Title of the Act, as it was printed immediately after that Session of Parliament in which it was made.

§. 7. 2. It is Enacted, That if the Archbishop shall refuse to grant any Dispensations, Faculties, &c. — which he is authorized to grant by Virtue and Authority of this Act — he shall be liable to be punished for such Refusal — From whence it is very obvious to infer, that he is not authorized by this Act to confer Degrees; because there is hardly any Case supposable, where a Person can have a Right to a Degree by Faculty from the Archbishop, as the Archbishop shall render himself obnoxious to Punishment for refusing to grant it.

3. It

3. It is likewise provided by this Act, that no Dispensation, Faculty, &c. — which was charged 4*l.* or above, at *Rome*, shall be put in Execution, till the same Dispensation, Faculty, or other Writing, of what Name or Nature soever it be, shall be *confirmed under the Great Seal*, and inrolled in Chancery.

And it is farther Enacted, That all Fees for customable Dispensations, Faculties, &c. which were wont to be sped at *Rome*, shall be paid according to such Tax-Books as are by the said Act ordered to be made; and that all such Dispensations, Faculties, &c. which are taxed at 4*l.* or more, in these Books, shall be confirmed under the Great Seal. The necessary consequence of which is, that those Faculties for Degrees granted by the Archbishop, which are taxed at 4*l.* and are not confirmed under the Great Seal, can receive no Authority from this Act, or from the Tax-Books made by direction of this Act. §. 11, 12.

As to the Tax-Books mentioned in the Act; neither of the Original Books, (if any such were ever made) is now to be found: But Cod. Jur. Eccl. Bishop Gibson, in his Notes before quoted, says, that One Copy at least clef. p. 106. of this Book is still remaining. This is now kept in the Faculty Office, and was, about forty Years ago, transcribed by Mr. Taylour, then a Clerk in the Office, from an ancient Paper MS. in the custody of Sir Charles Hedges, and (as Mr. Taylour himself assured me) exactly transcribed, without the Omission, or Alteration, of any one Word, to the best of his Skill and remembrance. But that this ancient MS. (the Copy of which I have carefully perused) was not an Original Tax-Book, made according to the direction of the Act of Parliament, or a Copy of such Original, will plainly appear from the following Considerations.

For in the first place it seems, very probable, that, if any Tax Books had been made according to the direction of the Act, they would have been drawn in English; because they were designed for the use of all such as were Suiters for any Dispensation or Faculty, who were to have recourse to them whenever they required it. But, if they had been drawn in Latin, the Titles of them would certainly have been in Latin too, and would have expressed by what Authority or Direction the Books were made: Whereas the Book now remaining is in Latin, with this English Title to it, viz. A Book of Taxations concerning the Act of Dispensations. §. 11.

In the next place it is to be observed, that this Book is not signed, or subscribed, by any body; whereas the Act positively orders, that every Leaf of those Books, (which were Enacted to be drawn and made of one Tenor) and both sides of every Leaf, should be subscribed by the Archbishop of Canterbury, the Lord Chancellor of England, the Lord Treasurer, and the two Chief Justices of both Benches for the time being. And such Subscription was absolutely necessary to render the said Books authentick. Neither is there any Date to this Book; so that we cannot tell, whether it were later than the Act of Parliament, or whether it were earlier, and adapted to it afterwards; (as from the following Remark it appers to have been) for,

Another thing observable in this Book is, that, in the Margin, just over against several Sums at which certain Dispensations are taxed, it is said, *vel arbitretur secundum provisionem Statuti;* over against many others, *vel arbitretur ut supra;* and sometimes *arbitretur secundum pro-*

visionem Statuti, without any Tax; (but the Taxes for Degrees have no such Note annexed) Which marginal Entries must have been made by way of accommodation to the Statute, before any Tax-Books were drawn in pursuance of it; because, if such Authentick Books had been made, the Rates for all manner of Dispensations and Faculties would have been there fixed and determined, and not left to the discretion of the Officers concerned to regulate, as they saw fit.

But that which puts this matter beyond all doubt, is; that several Faculties and Dispensations, with the Taxes of them, are enter'd in this Book, which were *not grantable by the Archbishop*, or by any other Power whatsoever, *by virtue of this Act*. These therefore could not be inserted in those Books, which were to contain the Taxes of such Dispensations and Faculties *only*, as were made grantable by the Act; and, if they had been put in by those who were appointed to draw these Books, they could not have been allowed by those great Persons, who, upon a strict Perusal and Examination, were to subscribe them.

This will be made out by the following Instances.

§. 21. The Statute of the 21. H. 8. cap. 13. was made on purpose to regulate the Abuses introduced by the Court of Rome, with relation to Pluralities and Non-residence, and to prohibit all Dispensations from that Court, or elsewhere, contrary to this Act; And in the 25. H. 8. which translates the Power of Dispensing from the Pope to the Archbishop, there is a particular Proviso, that *nothing contained in that Act, nor any License or Dispensation thereafter to be made by Virtue and Authority thereof, shall any way alter the Statute of the 21. H. 8. cap. 13.* which was made for Reformation of Pluralities and Non-residence.

Gibson's Cod. And yet, notwithstanding the former Statute, which sets Dispensations on a new foot, and this Proviso made in the latter, to confirm the

Jur. p. 159. Limitations in the said Statute contained, we find, in the Tax-Book now remaining, all the same extravagant Dispensations for Pluralities and Non-residence as had been granted by the See of Rome before the making of the Statute of the 21. to restrain them. For (as Bishop Gibson observes in his Notes upon this Act) "in the Catalogue of Faculties, "which were grantable at Rome in the Times of Popery, were the Three following.

P. 199. "Dispensatio ad quæcunque & quotcunque Beneficia incompatibilita." "Ad valorem 500. l. per Annum." "Ad valorem 1000. l. per Annum." "Absque ullâ restrictione. Which Dispensations were called *Tot Quot*."

Ibid. And Dispensations were granted heretofore for such a number of Benefices without specification, and sometimes with an additional Power "to exchange and take others, only keeping within the number." All which Dispensations for Pluralities are particularly specified in the aforesaid Book; and one of them runs in this Form: *Dispens. ad quæcunque & quotcunque Beneficia incompatibilita, cum clausula non residendi absque quæcunque restrictione.* So that, if this Tax-Book be allowed to be authentick, neither the Practice, nor the Law, with regard to Pluralities and Non-residence, was altered by the Statute of 21. H. 8. from what it was while the Right of Dispensation rested in the Pope (as Bishop Gibson in his Notes before cited asserts it was). There are likewise several other matters mentioned, and taxed in that Book, which, tho' they had been, in some Form or other, executed,

or dispatched by the Court of Rome, yet did not come within the Meaning and Intention of the Statute of 25 H. 8. so as to be passed by the Archbishop in his Faculty Office established by this Act. E.G.

Dispensatio ad contrahendum Matrimonium, non obstante quocumque impedimento publicæ Honestatis, Justitiae, &c. Because this was a Matter repugnant to the Law of Almighty God, in which case the Archbishop could in no manner of wise grant any Dispensation : §. 3.

Indulgentia decem annorum, et vixib; sis oib; excedat de tempore anni.
Indulgentia plenaria. Because these were Privileges allowed by all Catholicks to be so appropriate to the Person of the Pope, that they could not be exercised by any other Person whatever, without an immediate Authority from him.

Absolutio ab Excommunicationis sententiâ, non cum aliis sibi concessis.

Commutatio ultimæ voluntatis, modis
Declaratio Juris in casibus dubiis. Because these were Matters transacted in the Consistory Court, and could not be done merely by a Faculty, or any such Instrument, without a Judicial Process.

Several other Observations might be made; but these are sufficient to demonstrate, that the Tax-Book now remaining in the Faculty Office cannot be a Copy of any such Original as was made, and subscribed; according to the Direction of the Act; but is rather (as it seems to me) a loose Collection of various Matters, taken out of several different Books relating both to the ordinary, and extraordinary, Jurisdiction of the Court of Rome, put together with a design to compose out of it such a Tax-Book as the Act of Parliament directed to be made, and which, I believe, was never made.

How these two Titles, relating to Degrees, came to be inserted, I cannot tell: for, having searched all the Original Office-Books belonging to the Court of Rome in the time of Leo X. about the Year 1514. (now preserved entire in the Harley-Library) in which are contained all sorts of Matters dispatched by the Datary, Penitentiary, Consistory Court, Secretary's Office, Chancery, and Chamber Apostolical, no such Bulls or Faculties as these appear. Under the Head *De Creationibus*, where it was most likely to find them, there are no other than what follow, viz.

Creatio in Notarium Apostolicum.

Creatio in Comitem Palatinum.

Creatio in Accolatum Cappellani Papie.

Creatio in Protonotarium.

Creatio in Canonicum alicujus Ecclesie.

There is indeed in these Books, but in what Office I could not well distinguish, (it seems to me to be a separate Head of it self) this Title, *De Licentia Doctorandi.*

This License is described, in the first Clause, to be a Power granted to some Prelate; together with two or three Doctors of the Faculty, to invest a Person with the Ensigns belonging to a Doctor's Degree. Several Directions are afterwards given for the proper Exercise of this Power in different cases, without any mention of Taxes, or of lower Degrees. This seems to have been the common Method in which the Pope himself conferred Degrees; and, when he empowered any others by Bull to make Doctors, it was by giving them Authority to grant such Licenses as

these; which is very different from the Method of *Creation* now used by the *Archbishop*.

The next thing to be considered, is, what *the Practice* hath been with relation to *Degrees* conferred by the *Archbishop*, since this Statute 25 H. 8. was made.

It is said indeed, in the Faculty granted to Mr. Peplo — *Exemplum Antecessorem nostrorum imitati* — But (as I have good reason to believe) there are very few Instances to be found of such Faculties, granted before the Restoration: None, upon the best search I could make, appeared to me, in either of the Offices where such Faculties ought to be registered; and all the Faculties, which did appear there, were manifestly built upon the mistaken Authority of the *Tax-Book* before mentioned, having no other Foundation to support them.

But I have been since informed, that, in an old Book, remaining in the *Archbishop's Faculty Office*, (which I did not see) entitled, *Facultates expeditæ & sigillatæ Anno Dom. 1543.* (which Book contains the Entries of all Dispensations and Faculties to the Year 1548.) is the following Entry, *viz.*

1544. sexto die Decemb. prædictæ Dispensatio concessa Georgio Broke, Filio naturali & legitimo Domini Georgii Broke, Domini de Cobhin, Venetiis jam studenti; quâ dictus Georgius Broke ad Gradum Baccalaureatus in Artibus promotus existit; & quod ipse omnibus & singulis Privilegiis, & Preheminentiis, & Prerogativis quibuscumque, ubique locorum, uti, frui, quatenus Jura & Statuta hujus Regni non adversantur, gaudere valeat & possit, quibus alii ad Gradum hujusmodi in Universitatibus Studiorum Generalium promoti, uti, frui, & gaudere valeant & possint, in formâ communi.

Now, as to this ancient Faculty for a Degree (which we are sure, from the Account given of the Book in which it is found, is the only one that was granted during the space of 5 or 6 Years) there are several Remarks to be made, which seem to me of great use for determining the present Controversy.

1. In the first place then I observe, that the Instrument, by which Broke was promoted to the Degree of *Batchelour of Arts*, is called a *Dispensation*; for the use of which Word no other Reason can be given, but that it was thereby intended to cover the Practice of conferring Degrees under the shelter of an *Act of Parliament*, which was known to extend only to *Dispensations*. For the *Creation* of a *Graduate* hath nothing of the Nature of a *Dispensation* in it; so that, had the *Archbishop* any power of *Dispensing* in this case, it could not be by giving a *Degree*; but by granting a *Faculty* to supply the want of a *Degree*, where some *Canon*, or *Local Statute* required it; which sort of *Dispensation* was never granted since 25 H. 8. by any other Authority but that of the *Crown*.

2. The next thing to be taken notice of, is, *the Extent of those Privileges*, which are here granted to Broke; *viz.* all manner of *Privileges*, which any other *Graduates* of the same Rank, in any *University* throughout the World, did, or might, enjoy: For thus much do these Words, *ubique locorum*, and *in Universitatibus Studiorum Generalium*, import; there being no Restriction of them expressed, or implied, either

to the King's Dominions, or to the Universities of this Realm. Now these are such extravagant Privileges, as no Archbishop of Canterbury (whose Jurisdiction was confined to England) had any Colour or Pretence of Authority to grant: But all these general Expressions are manifestly taken out of Faculties granted by virtue of the Pope's Authority, which he claimed to exercise in all this part of the World. For in this very Style did the Instruments of Count's Palatine run; who were empowered by Bulls from the Pope to give Degrees; tho' tis very well known, at the same time, that even such Faculties as these (in whatever Terms they were conceived) were never regarded in any other Popish Country besides Italy: and particularly as to England, we are sure that none of the Full Powers granted to Count's Palatine, viz. to confer Degrees, make publick Notaries, Legitimate, and bestow Arms, were ever permitted to take place in this Kingdom; and abundance of Instances may be shewn, where every one of these Powers have been denied here, excepting that of giving Degrees; and it does not appear that that was ever attempted.

It is farther to be observed upon this Head, that Broke was actually resident at Venice, when he was made Batchelour of Arts; and therefore the chief Design of the Faculty must have been, to enable him to enjoy all the Privileges of that Degree in foreign Countries; which tis certain he could not do by any Authority of an English Parliament; and consequently it was absurd to found the Power of granting such a Faculty upon any Law or Statute of this Realm: and that softening Clause of quatenus *Jura & Statuta hujus Regni non adversantur*, did not only imply a Distrust of the Legality of what was granted; but was, with relation to the *ubique locorum*, and the other general Terms made use of, highly improper.

3. There is another Expression in the Entry now before us, which deserves to be considered, because some Stress may probably be laid upon it, and that is, *in formâ communî*: Upon which I beg leave to observe, that in the old Tax Book (as it is called) after several Heads or Kinds of Faculties, these Words are added; E. G. *Creatio Notariorum in formâ communî*; *Literæ Dimissoriæ in formâ communî*: But after *Creatio Doctorum*, and *Creatio aliorum Graduorum*: no such Words are found. From whence it plainly follows, that, where these Words occur, there were some known Forms of granting such Faculties or Dispensations before that Book was compiled; and, where they are not added, the Framers of that Book, whoever they were, could not tell in what manner such Faculties were to pass, nor consequently whether they were grantable by the Act or not; and therefore, very probably, these Faculties for Degrees were not within the Meaning of the Statute; because, if they had been *customable* before the Act, the Form in which they were granted would have been well known at the Time of making the aforesaid Tax-Book.

What then can be meant by this Expression, *in formâ communî*, at the close of the Entry in 1544? There had been, 'tis likely, some Instances of Degrees given before this, tho' not many, I presume, in the nine Years which had passed, from the making of the Act to the Date of the Book in which this Entry is found, since in the five following Years there was but one: And a few Instances, during so small a space of Time, cannot well justify the Expression of *Forma communis*; had the Instruments been all drawn in the same Form (as I can hardly persuade my self they were.) The Form therefore here meant (if these Words were not added by the Clerk at random, as I suspect they might, because they were used in the

Entries of other Dispensations) must be some common Form of conferring Degrees at Rome, which had not yet obtained in England; and could be (as I judge) no other than the *Licentia Doctorandi* mentioned in the Books of *Leo X.* before taken notice of; that being the only Form of granting Degrees, which we meet with in the *Roman Office Books*: but the Power of creating Doctors, and other Graduates (if any such Power was lodged in the *Archbishop* by the Statute) is personal, and must be exercised (as all the other Powers there granted are) by some immediate Act of his own; and he can have no Authority from the Statute to delegate this Power to another, as is done by a *Licentia Doctorandi*. If therefore it should be found, that this was the Form in which *Archbishop Cranmer* conferred Degrees, it must have been derived from some other Original than the *Act of Parliament* now set up.

4. The last Observation I shall make upon this Entry, is, That there is no mention in it of any *Act of Parliament*, or *Tax-Book*, or of the *Example of Predecessors*, or indeed of any particular Authority, upon which the Faculty referred to was granted; and therefore nothing can be concluded from hence in favour of a Power now claimed upon those several Grounds.

But to speak freely upon this Subject; after the 28th of *Hen. 8.* when the Pope's Authority was entirely abolished (before which time I have reason to think no Faculty for a Degree was granted here by any body) the Papal Powers were exercised in a very arbitrary and extravagant manner, without any regard to *Acts of Parliament*; not only by the King himself, but by all others who were commissioned, supported, or encouraged by him.

About the time that the *Act* before mentioned had passed, *Cromwell* was made *Viceroy in Ecclesiastical Affairs*, and, whilst he continued in this Office, he did (as it is well known) exercise as great, and in some cases greater, Power than the Pope ever did in *England*. For (as we find in *Strype's Life of Cranmer*) the *Archbishop* himself took a *Licence* from him to visit his own *Diocese*. Dispensations and Faculties were then granted by his Authority, he having (as the same Learned Writer tells us) a Master of the Faculties as well as the *Archbishop*, tho' by 25 *Hen. 8.* the Power of granting Dispensations, and appointing Officers for that purpose, is lodged solely in the *Archbishop*; and therefore *Cromwell* might, in all probability, begin the Custom of conferring Degrees.

And, as *Cromwell*, by virtue of his extraordinary Commission, might imitate the Pope in this particular; so the *Archbishop* afterwards might take upon him to do the same upon the strength of his *Legantine Power*. For 'tis well known that, after the Pope's Authority was restrained, and even after it was extinguished by *Parliament*, the *Archbishop* continued to use the Style of *Apostolicæ Sedis Legatus*, and was supposed to do many things by the Pretent or Colour of that Name of Legate, tho' (as it was argued in the Dispute against his *Court of Audience*) no longer Bishop of *Rome* Lord here, no longer his Vicar [or Legate.] And so 'tis probable his Power of conferring Degrees might be what he claimed as Legate; tho' he was willing to have that, as well as his *Court of Audience*, screen'd by the *Act* of 25 *H. 8.* But, as it was then alledged, that this *Act* of *Parliament* could not be drawn with twenty Team of Oxen to stretch to the continuance of the *Court of Audience*; so may it now with as much reason be asserted, that it cannot be stretched to the continuance of that Power of giving Degrees in the *Archbishop*, which Legates only

P. 55.

Ibid.

App. to Life
of Cranmer.
p. 22, 30.
Ibid. 29.

Life of Cran.
p. 39.
App. p. 29.

only pretended to; and consequently *Archbishop Cranmer* might be mistaken in pleading this Statute upon either occasion. For the Notion which at that time seems to have prevailed was, that whatever the Pope could do in any Country subject to his Jurisdiction, (which was not contrary to the Law of God) that might be done, after the Abolition of his Power here, by some other Authority in England: but none of our Lawyers have ever interpreted that Act in so extensive a Sense, as far as appears from any Comments upon the Act now extant, tho' if they had, it would not serve the present purpose, because there always was another Authority in England, by which Degrees were granted. Whether therefore *Archbishop Cranmer* used the Style of Legate, when he gave Degrees or not, it may be as well affirmed in this case, as it was in the other, concerning his Court of Audience, that no Archbishop can exercise this Authority, except he implieth to all the World (though he speak it not nor write it not) that he is a Legate of the See of Rome; or at least, that he derives this Power from his Predecessors, as Legate, and not as Archbishop.

Ibid:

Thus stood matters in the Reign of *Hen. 8.* but in *Edw. 6.* time, when not only the Pope, but Popery also, was laid aside, there are no Traces to be discovered of such a Power, as is now claimed, of conferring Degrees by Faculty. Nay, so far were our first Reformers from favouring any thing that look'd like it, that bestowing Degrees regularly in the Universities was hardly suffered by the Visitors of those Places, as being a Practice of Popish Original, tho' instituted to very wise Purposes.

When Queen *Mary* came to the Crown, this Act of 25 *Hen. 8.* was repealed; and after the Revivour of it by Queen *Elizabeth*, in the first Year of her Reign, (from whence the Plea of Practice in relation to the Archbishops giving Degrees ought to bear date) till *Laud* came to be Archbishop, it does not appear that this Power was ever exercised or pretended to: But He (as there's some ground to believe from the Accounts given by *A. Wood*) did confer one or two Degrees in his own Family; and, upon his Authority alone as I take it, *Juxon*, after the Restoration, granted a few Faculties, for Degrees, of different Kinds; after which, from *Sheldon's* Succession to the See of *Canterbury* till this time, Degrees by Faculty have been multiplied without distinction.

This is a full and impartial Account of the Exercise of this Power of conferring Degrees by Faculty ever since 25 *Hen. 8.* From whence it seems very evident, that no such Custom of conferring Degrees can be pleaded, as will establish the Right now claimed by the Archbishop; because Custom must be certain, uniform, constant, and uninterrupted; whereas the Practice in this case has been various, both as to Form and Authority, with a long Interrmission of at least 80 Years, after a very considerable Change made in the first Ground and Foundation of the Pretence.

The Reason given why so few ancient Faculties for Degrees are to be found is; that the Office-Books are lost. Which of them are lost, and how they came to be lost, I cannot tell. But this is certain, that some of these Books have survived the Calamities both of War and Fire, and I wish they had all been preserved with more care, for then I am confident, it would have appeared more plainly that the Practice of giving Degrees was extinguished together with Popery.

But supposing there was a Power of conferring Degrees of all Kinds granted to the Archbishop by 25 Hen. 8. and supposing this Power had been continually exercised by Archbishops of Canterbury ever since; notwithstanding this, it may be safely affirmed, that Degrees so conferred could never be reputed or taken to be any more than bare Titles of Honour, which were attended with no Legal or Canonical Effect whatsoever.

The Truth of all which, and especially of this LAST Point (which I shall chiefly insist upon) will, as I am firmly persuaded, be very evident from the following Extracts.

STATUTES and CONSTITUTIONS made before 25 H. 8. with other Historical Passages relat- ing to Degrees.

9 Hen. 5. *Inter Petitiones Parlamenti de Anno 9. Hen. 5. in Turri Londin.*
remenant'

"Pleseth to your Excellents Wisedomes to ordeyne — that
"no Man practise in Fysick fro this time forwarde, but he have
"long time y — used the Scoles of Fysick within some Universitee,
"and be graduated in the same; that is to say, but he be Batcheler, or
"Doctor of Fysick, having Letters Testimoyalz sufficiente of on of these
"Degrees of the Universitee in which he took his Degree —

The Act in Answer to this Petition ordains, "That the Lords of
the King's Council shall have Power to punish, as they see fit,
such as shall practise the Arts of Phylick or Surgery, & ne sont
en my habilez ne approurez en ycelles comme appent as mesmes les Arts,
cest assavoir ceux de Fisick en les Universitees, & les Surgeons entre
les Mestres de celle Art.

1 H. 6. c. 3. "The King by the Assent, &c. — hath ordained and established, that
all People born in Ireland shall be voided out of the Realm within a
Month after Proclamation made, except Graduates in the Schools, and
Men having Benefice, &c. — And that the Graduates, and Beneficed
Men shall find Surety — that the Scholars of Ireland, which be not
Graduates, and be of the Kings Obeystance, shall find Surety — in
the same manner as the said Graduates should do.

Cap. 8. In the Recital of another Act, which enforces this Law, it is said,
Whereas it is ordained that the Graduates and Beneficed Men
should find Surety —

3 Edw. 4. c. 5. In an Act made for regulating Apparel — "It is provided that the
Scholars of the Universities of this Realm, and Scholars of any Uni-
versity out of this Realm, may wear such Array as they may wear
by the Rule of the said Universities, notwithstanding this Ordinance.

1 H. 8. c. 14. It is ordained — "That no Man under the Degree of a Gentleman,
except Graduates of the Universities, &c. — shall use or wear any
Furres — And that no Man under the Degree of a Knight, except
Spiritual Men, and Serjeants at the Law, or Graduates at Universities,
shall use any more Cloth in a long Gown than four broad Yards.

3 H. 8. c. 11. "No Man shall practise Physick in London, or within seven Miles of it;
unless he be first approved by the Bishop of London or Dean of
Pauls — nor in any other part of England, unless examined, and ap-
proved by the Bishop of the Diocese.

"Provided

" Provided always that this Act, nor any thing therein contained; " be prejudicial to the Universities of Oxford and Cambridge, or either " of them, or to any Privileges granted to them.

Another A^tc of Apparel, with the same Proviso's for *Graduates of the Universities* as in the former, *viz.* H. 8. cap. 14.

The same Proviso's are repeated in a like A^tc made the next Year. In a Statute made the 14th of this Reign, it is Enacted — " That no Person be suffered to exercise and practise Physick throughout England — without being examined and approved by the College of Physicians — except he be a Graduate of Oxford or Cambridge, which hath accomplished all things for his Form without any Grace.

In an A^tc, which takes away all Dispensations for Plurality of Benefices, it is provided, " That all Doctors and Bacchelors of Divinity, Doctors of Law, and Batchelors of Law Canon, and every of them, which shall be admitted to any of the said Degrees by any of the Universities of this Realm, and not by Grace only, may purchase License, and take, have, and keep two Parsonages or Benefices with Cure of Souls.

By another A^tc concerning Apparel, it is declared, " That it shall be lawful to all Archdeacons, Deans, and Doctors or Batchelors in Divinity, Doctors of the one Law or of the other, and also Doctors of other Sciences, which have taken their Degrees or be admitted in any University, to wear Sarcenet —

" None of the Clergy under the Degrees aforesaid may wear any manner of Furses — And none of the Clergy under the Degrees aforesaid, other than Masters of Arts, and Batchelors of the one Law or the other, admitted into any University, shall wear in their Tippets any manner of Sarcenet.

Now from all the Laws made concerning Apparel, in Popish Times, 'tis plain, that no Doctor, or other Graduate, made by the Pope, or any other Person by Authority of the See of Rome, was allowed to wear the same Habit that Graduates of any University whatever might wear; and, if this small Privilege was not granted them, it is not likely that they were permitted to enjoy any greater. And so in fact we find them excluded from all other Privileges granted by Act of Parliament to University-Graduates: For they could not, by virtue of their Degrees, practise Physick in England, nor enjoy Pluralities; nor, if Irishmen, were they allowed to stay in England in H. 6th's time. From whence it evidently follows, either that there were no such Graduates by Papal Authority here, when these Laws were made; or that no manner of Regard was then shewn to them by the State.

Let us see in the next place of what account the Pope's Degrees were held in the Church.

Ordinatio — Hen. Chichley, Archiepisc. Cantuar. de promotione Graduatorum in Academiis Oxoniae & Cantabrigiae, facta in Convocatione Cleri — incæpta Novemb. 6, Anno 1417.

Hen. Chichleius, Archiepisc. Cantuar. — & Apostolicæ Sedes Legatus — Nos attendentes, Apostoli attestante Doctrinâ, laborantem Agriculam de fructibus oportere percipere, Ordinamus — quod Doctores sacre Theologiae, Decretorum, Legum, & in Medicinis, promoveantur ad Beneficia curata ad valorem — 60 Marcarum per Annum — Licentiati in Facultatibus predictis, ac Bachelorei in Theologâ ad Beneficia 50 Marcarum

Lyndwood.
Constit. Prov.
Ed. Oxon.
1679. p. 71.
Ann. 1417.

Marcarum — Magistri & Baccalaurei predicti ad Beneficia & Marcarum, &c. Proviso semper quod Personae predictae Gradus supradictos per Gratiam non attigerint. Volumus etiam & ordinamus, quod omnes & singuli Patroni spirituales infra Cantuar. Provinc. — primum Beneficium hujusmodi vacaturum alicui de personis predictis conferre tenentur — Et quod Graduati predicti, antequam ad Beneficia promovantur, Litteras Testimon. sub Sigillo Universitatis, in qua Gradus suos adepti fuerunt, Patronis & Ordinariis — de Gradibus & Lecturis suis, exhibeant realiter & ostendant.

— Proviso quod si per Sedem Apostolicam, contra quam nullatenus attentare intendimus, alias pro promotione Graduorum predictorum infra tempus statuit. (sc. Decennium) Provisiones Generales dudum consuetas fieri contingat, quod extunc omnino cesseret Ordinatio antedicta. Vid. Antiq. Brit. pag. 278.

Pag. 72.
Anno 1421.
Alia Ordinatio per predictum Archiepiscopum, pro promotione Graduorum in Academis predictis facta. Julii 16. An. 1421.

This Order contains only a Command from the Archbishop to all his Suffragans, that they should take care to see the former Constitution strictly executed in their several Dioceses, and was obtained upon a fresh Application of the two Universities, as I find by Mr. Wood's Hist. & Antiq. Univ. Oxon. viz.

Wood's Hist. p. 210. Anno 1421.
Hoc Anno Cancellarii utriusque Academie, in Synodo jam Londini coacta, pro utriusque Academie Studiosis exorarunt, ut Decretum ante quatuor annos in Synodo latum, de conferendis Beneficiis, in eos solos qui Gradibus Academicis erant ornati, pro Benefiorum censu & Graduum Dignitate, jam promulgaretur.

Ib. ex Reg. Chich.
Eodem quasi tempore sanctionem de utriusque Academie Graduatis ad Beneficia evehendis evulgare propterea maturavit Archiepiscopus, quod eam rem rogassent Ordines Parliamentarii.

Pag. 217.
An. 1438.
Univ. Oxon. Alumnorum suorum paucissimos ex antedictis Synodorum constitutionibus ad Beneficia eveltos agre ferens — ad Hen. Ghicheley Arch. Cant. reliquaque Praelatos Londini coactus scripsit. Litteras hasce tradidit Cancellarius, qui miserrimum Academie Statum tanta arte enarravit, ut (suorum quoque dispendia eodem tempore aperi-entibus Cantabrigiens. Delegatis) Episcopos ad ita sanciendum adegerit, (viz.) "Quod quicunque Patronus Eccles. Provinciae Cantuar. quod-
" cunque Beneficium Eccles. etiam si Dignitas vel Præbenda fuit —
" alicui Personæ alterutrius Universitat. predict. Gradum Scholasticum
" habenti, Doctori (viz.) Theologie, Legum, vel Medicinæ, Magistro
" Artium, Liechiatore, aut Baccalaureo in aliquâ Facultate predict. of-
" ferre teneatur —

Eadem tempestate designati sunt — qui de consimili Lege in Provincia sua ferenda cum Archiepiscopo Eboracensi agerent.

Pag. 218.
Neque hâc tantum ex parte voto potiuntur Academicci, verum Decreto Archiepiscopali obtinent, ut Vicarii Generales, Officiales, & Commissarii (quorum jam munibantur Legulei quidam imperiti) ex utriusque Universitat. in Jure Civili & Canon. Graduatis deligerentur. This is represented as a Decree of the Synod made Anno 1430. in B. Parker's Antiq.

Antiq. Brit.
284.
In hâc Synodo multæ contra Episcopos ab inferioribus Praelatis querelæ delatae sunt, quod Vicarios Generales Officiales, & Commissarios, ignorantes & imperitos Legum in Diœcesibus suis statuerint. Constitutum itaque est "ne quis Jurisdictionem Ecclesiasticam exerceat, nisi Ju-

" ris

" ris Civilis aut Canonici Gradum & Cantab. vel Oxon. Academ. accep-
" pisset.

From hence 'tis plain, that, in Archbishop Chichley's Time, no Person promoted to a Degree by the Pope, or any Authority of the See of Rome, was capable of any Ecclesiastical Benefice, or of exercising any Ecclesiastical Jurisdiction in England: And it does not appear that these Canons were ever rescinded, or any other of a contrary tendency ever made before 25 Hen. 8. And if these Canons or Constitutions were in force at the Time of making the Act; (as there is just Reason to believe they were) then Degrees given by the Archbishop afterwards could not be esteemed Legal Qualifications for any Ecclesiastical Benefice, or Office with Jurisdiction: because the Pope's Degrees were not so esteemed before. But, whether the Authority of these Canons lasted so long or not, there was certainly no Change in the Opinion either of Convocation, or Parliament, with relation to University-Degrees, in all that Time.

And what was done in England in favour of Degrees taken in the University, will appear to be very agreeable to what past Abroad about the same time, from the following Instances.

Among the Regulations made by the Council of Constance, with regard to the Officers of the Apostolick Chancery and Chamber, An. 1416. we find this.

L'Enfant
Hist. Conc.
Const. l. 7.
p. 669.

Il s'etoit introduit un grand abus à l'gard des Docteurs. Il y en avoit Beaucoup qui au lieu de prendre des Degrez dans les Universitez, apres y avoir bien Etudié, alloient en Cour de Rome solliciter des Bulles de Docteur, qu'on accordoit pour de l'argent. Par là on peut aisement Juger, que la Science étoit fort avilie, & que la Religion étoit fort profanée par de pareils Docteurs. Pour remedier à ce defordre, le Collège Reformatoire ordonne, qu'à l'avenir le Siege Apostolique ne donnera plus le pouvoir de faire des Docteurs, ou Maitres aux Arts, dans quelque Faculté que ce soit, ni aux Legats, ni aux Nonces Apostoliques, ni aux Generaux d'Ordres; & que ce pouvoir sera réservé aux Chanceliers de Universitez. A l'gard de la Cour de Rome, qui est censée avoir les Privileges d'Université, personne n'y sera Gradué qui n'y ait son cours dans la Science où il voudra être Docteur, ou qu'il n'ait étudié dans quelque Université. De quoi il apportera de bons Temoignages du Chancelier & des Docteurs de l'Université, aussi bien que de ses meurs. Alors il sera reçu, non par une Bulle, ou par une Commission particulière, mais par les Docteurs & Professeurs de la Cour de Rome, après un rigoureux examen. De sorte que les Degrez accordés par Commission particulière du Siege Apostolique seront désormais regardés comme nuls.

In the Concordata Germanicae Nationis & Martini V. Papæ, established by the said Council, there is this Constitution,

Vonder-
hardt. p. 1055.

Quod in Metrop. & Catbed. Eccles. German. Nationis senta pars Canoniciatum & Prabendarum sit pro Doctoribus, aut Licentiatis in Sacra Pagina, vel altero Jurium, vel in Theolog. Baccal. formatis, aut Magistris in Medicinâ, qui per biennium, seu Magistris in Artibus, qui per quinquennium post Magisterium, in Theologia, aut altero Jurium, studuerunt in Studio Generali.

About the same time a Decree past, De Collationibus Beneficiorum pro Natione Anglicana, in which I find the following Passages — "Papa pro tempore existens in suis Provisionibus ad prelecturas & alia Be-

" neficia Eccles. mentem habeat & gerat specialem ad Doctores in
Theolog. Jure Canon. & Civili.

" Archiepiscopi, Episcopi, &c. — Beneficiorum Collatores, Doctores
in Theol. Jure Canon. & Civili, necnon Baccalaureos in Theol. ad que-
cunque Beneficia — conferant — And then, after several Rules given
with relation to the different sorts of Benefices which were to be bestow-
ed upon Graduates, it follows

" Et ad Finem, ut premissa effectualiter valeant, Cancellarii, vel
Rectores Universitatum pro tempore existentes de nominibus Docto-
rum, Licentiat. ac Magistrorum, & Baccalaur. Ordinariis locorum cer-
tificant de tempore in tempus.

P. 925. 970. There are likewise in the Regule Cancellariae of Joh. XXIII. and Mar-
tin V. several Favours and Privileges granted to Persons who proceeded
regularly in Divinity, Law, Medicine, or Arts, with an Exception to
all other but Familiares D. Papæ Commensales, Sedis Apostol. Officia-
les, &c. without any mention of such as were created Doctors, Masters,
or Batchelors by the Pope, or any Commission from him.

P. 1012. And in Martini V. Reformatio Curie Romane — these two Orders
were made, viz. "Ad Episcopales Dignitates nullus eligatur nisi Doctor,
aut Licentiat, cum rigore examinis.

" Dignitates majores in Ecclesiis Cathedralibus, & Principales in
Collegiatis, nullis nisi Doctoribus, vel Baccalaureis formatis in Theo-
logia, vel Doctoribus, aut Licentiatis in Jure Canonico vel Civili con-
ferri valeant.

Concil. Basil. In the Council of Basil, An. 1438, the like Orders and Provisions
Seff. 31. were made for the benefit of such as were Graduates in some University,
the particular Degrees and Standing of the Persons being there specified;
and every Presentation of a Non Graduate, where a Graduate might
have been found, was declared null and void.

Concil. Lat. 5. Decrees of the same kind were made also in the fifth Lateran Council,
Seff. 11. An. 1416. But these relating only to the French Nation, I shall transcribe
them out of the Concordat confirmed by this Council.

Concordat inter Leo. X. Pap. & Franciscum Gallie Regem. "Præbenda & Canonicat. in quilibet Ecclesiâ Metrop. & Cathedrati
conferri debet. Theologo, Magistro, Licentiat, aut Baccalaur. formato,
qui per decennium in Universitate Studii Generalis privilegia studi
aduerit.

" Ultra dictas Præbendas. Theologales tertia pars omnium Dignitatum,
Personatum, ceterorumque Beneficiorum Eccles. Viris Literatis, Gra-
duatis, & per Univers. nominatis conferri debent, qui Literas suorum
Graduum cum tempore studii debite insinuaverint.

And at this Day (as I am well informed) a Degree conferred by the
Pope is no Qualification for any Benefice or Dignity whatever in the
Church of France.

From these authentick Accounts of what passed in the Romish Church
before 25 H. 8. it plainly appears, that giving Degrees in any other way
or form, but in some University, was all along look'd upon as an Abuse:
And that great care was taken, not only with relation to the Church in
general, by Decrees of Councils; but with regard to divers National
Churches, and the English in particular, by distinct Concordates between
the Popes and those Nations, that no other Degrees should be admitted as
Qualifications for any Ecclesiastical Benefice, but what were regularly
taken in some University. From whence I infer, that, at the time of
making

making the aforesaid Act, it was not customizable for the Subjects of England to sue to Rome for Degrees; and that, if any Persons had procured Bulls or Faculties for Degrees from the See of Rome, they would not have been allowed as Qualifications for any Dignity or Benefice, contrary to what was provided by Councils, and Concordates in that behalf; and consequently, that the Archbishop's Degrees now (did the Act impower him to confer Degrees) cannot be esteemed Legal Qualifications for any Ecclesiastical Preferment. For the Act says, "That all Faculties Dispensations, &c. granted by the Archbishop, shall be accepted — and admitted — good and effectual in Law, and as beneficial to the Persons obtaining the same, as they should have been if they had been obtained of the See of Rome, or of any other Person by Authority thereof: And therefore, since the Pope's Degrees were never accounted good and effectual in Law, and beneficial to Persons in England, before the 25 H. 8. Degrees conferred by the Archbishop, upon the pretended Authority of that Act, can give no Legal Advantages to the Persons upon whom they are conferred, because they can have no more Value, Effect, or Benefit, than they would have had, if they had been obtained of the See of Rome before the Act was made.

But to return to what past in England with relation to Degrees before the Statute of 25 H. 8.

Rex dilecto sibi in Christo Cancellario Universitatis Oxoniæ, & Majoribus Regentibus in eadem facultate, salutem. Religiosum & discretum Virum, Nobisque in Christo carissimum, Rogerum de Baketon, Ordinis Prædicatorum, qui, sicut accepimus, in Universitate vestræ prædictâ in sacrae Theologiæ facultate est in proxima incepturus, cupientes prosequi gratiosè, ipsum vobis pleno recommendamus affectu; rogantes atente, quatenus eidem Fratri Rogero, dudum per vos licentiatu, super hiis, quæ circa ipsius inceptionem requiruntur juxta libertates & consuetudines, quibus Fratres Prædicatores hactenus ibidem studentes lusi sunt temporibus retroactis, non obstantibus aliquibus Ordinationibus contrariis per Nos factis, favorem & gratiam nostris precibus impendatis: Ita quod pro gratiâ sibi per vos in hac parte facienda, Nos invenire possitis ad Universitatis vestræ commoda de cætero promotores. J. R. apud Eborum 28. Martii.

Claus. 5. E. 2.
m. 8. dotso.

About the Year 1384. there arose a great Difference between the Physicians and Lawyers concerning Precedence; and the Cause being given by the Convocation of the University in favour of the Physicians, the Lawyers intended to appeal to Rome — "Quo intellecto, Rex causarum in fraudem Universitat. aliò delatarum Decisionem irritam pronuncavit, edixitque Juristis ne Regno excederent, aut aliquam pecunia sumam, in eam rem transmittenterent —

Wood's Hist.
& Antiq. Ox.
on. p. 194.

An. 1390. Cum fratres nigri — (principù verò quotquot pares gradui progressus haud fecerint) Examen Academicum fugientes ad exterros commeabant, ibique Magistri titulum sibi comparabant, non sine Fratrum Doctorum infamia atque gravi Universitatis dispendio; super his — Nostrates & Cantabrigenses Regem fecerunt certiorum — Qui ad Priorrem Provincialem omnesque in Anglia Priors Conventuales, in hac verba scripsit — "Vobis omnibus & singulis — injungimus & mandamus, inhibentes ne aliquem Fratrem — mare transeuntem, — ac Gradum sibi Magisterii, ac alias Gratias subdole ac fraudulenter impetrantem — & postea in regnum regressum — ad Libertates, Honores, seu Favores

F

Doctoribus

Pag. 196.

“ Doctoribus in Theologia per examinationem Universitat. debitè factis
 “ consuetos, aliqualiter admittatis, nec ipsum in Honoribus, Favoribus,
 “ seu Libertatibus hujusmodi pertractatis, seu pertractari, aut eisdem
 “ ut & gaudere quomodolibet permittatis — nullà habitâ consideratione
 “ ad Impetrations, Provisiones, seu Exemptiones hujusmodi —

Notwithstanding the many severe Statutes of Provisors, by which all manner of Persons, however dignified or recommended by the Pope, were excluded the Benefit of Papal Provisions for Preferment in England, the Graduates of our own Universities were particularly favoured in this respect by the Crown: as appears by the following License, viz. *Licentia impetrandi gratias Expectativas seu Provisorias à Summo Pontifice Graduatis utriusque Universitatis concessa, de quibusunque Beneficiis & Officiis curatis & non curatis.*

Rot. Parl.
Turri Lond.
Anno 1403.
5 H. 4.

The foregoing Passages plainly shew, that, as the Universities were founded and regulated by the King, so they were constantly under the Protection of the Crown; and that the Royal Authority often interposed in such Matters as concerned their Interest, even against the Pope: But especially with regard to Degrees, the Power of conferring which, whether as Honours, or Rewards of Merit, or as Proofs to the Church and Commonwealth of Mens Sufficiency, they received solely from the gracious and wise Appointment of the Crown. And no Instance can be given of a Popish King of England, who ever allowed the Pope's Degrees to be Qualifications for any Preferment in his Gift.

Wood's Antiq. p. 220.
Anno 1455.

Great Complaints being made by Dr. Gascoigne (from whom Mr. Wood transcribes his Account) of Corruptions and Abuses — in giving Degrees by the Regents of the University — the Author adds — *At vero fatendum est magnorum huc in re virorum, immo ipsius Pontificis, vestigia fuisse ingressos* — Here one would naturally expect to find some Complaint of the Pope's giving Degrees to unworthy Persons — but instead of that the Complaint made of the Pope in this place, is, of his bestowing Bishopricks and other Preferments in as scandalous a manner as the Regents then gave Degrees.

Pap. 249. An.
no 1524.

Cardinal Wolsey, in order to fill his great College at Oxford with Scholars, besides what he took out of other Colleges and Halls in both Universities, brought in such as practised the Civil and Canon Law in his Courts, who had been formerly of this University — *Quod ipsis pro forma cessit, hoc est, exercitiorum ad gradus capessendos requisitorum loco habebatur.* He did not make use of any Authority he had from the See of Rome, tho' as great as ever Legate had, to give Degrees, but accepted them as Favours from the University.

Pag. 389.

Hoc anno, viz. 1368. in Congregat. Regentium concessa est Gratia D. Simoni Islep, Archiep. Cant. in Cardinal. jam elect. cuius summa erat quod vocaretur ad incipiendum; that is, to commence Doctor in Divinity.

Wood's Fast.
Part. p. 646.
Anno 1507.

It was granted to James Stanly Bishop of Ely, that he might be created Doctor of Decrees, by a Cap put on his Head by William Archibishop of Canterbury, and Richard Bishop of London, which was accordingly by them performed at or near to London. And a Letter was sent by the Bishop to the University, to thank them for the Honour they had done him.

Wood's Antiq. Part. 1.
Pag. 557

These two Archbishops seem to have had no Value or Regard for the Pope's Degrees, but a very great Esteem for Degrees conferred by the University.

It

It is affirmed by *Harpsfield*, a Popish Writer in Q. Elizabeth's time, Harpsfield. Eccles. Hist. p. 539. that *Archbishop Courtney*, who lived between these two Archbishops, had among other extraordinary Privileges, the Power of making Doctors granted him by Pope Urban VI. But he cites no Authority for this; neither does *Archbishop Parker* mention any such thing in his Life of *Courtney*, taken out of the Registers at Lambeth, and other authentick Records; tho' he takes notice of another extravagant Grant of the same Pope to one *Disse*, a Carmelite Fryar, viz. to make Chaplains to his Holiness; and therefore very probably this was a Mistake in *Harpsfield*. But, supposing it true, this *Urban* was but an *Antipope*, who had a Competitor claiming and exercising at the same time all the Authority belonging to the See of Rome. Then the Grant was only personal to *Courtney*, and not to his Successors in the See of Canterbury; and to make Doctors only (which were the chief Titles of Honour and Distinction) not any other sort of Graduates. Nor is there any Instance to be found of any Degree given, either by *Courtney*, or any other *Archbishop of Canterbury*, before the 25 H. 8. and, by what was just now mentioned of *Warham*, the immediate Predecessor of *Cranmer*, (in whose Time that Act was made) 'tis very plain, that he did not pretend to give Degrees himself, when he condescended in such a Ministerial manner to convey an University Degree to one of his Brethren.

STATUTES and CANONS made ~~before~~^{since} 25. H. 8. with other Historical Passages relating to Degrees.

In an Act Entituled, *An Act extinguishing the Authority of the Bishop of Rome*, it is ordained, for stronger Defence and Maintenance of that Act; that an Oath of Supremacy there set down should be taken by every Ecclesiastical Officer or Minister — ever Temporal Judge — &c. And — by every Person taking Orders — “And by every Person which shall be promoted or preferred to any Degree of Learning in any University within this Realm, or other the King's Domions, at the Time of his Promotion or Preferment.”

In another Act Entituled, *An Act for the Release or Relief of such as have obtained pretended Licenses and Dispensations from the See of Rome*, after a Confirmation of lawful Marriages, it is Enacted, “That all who were at that time taken and reputed for Archbishops and Bishops — for Abbots and Priors — and other Heads of Religion — all Persons taken and reputed as Masters, Presidents, Provosts and Wardens of Cathedral Churches and Colleges, all Priests and Clerks which have received any of the Ecclesiastical Orders, all Archdeacons, and Deans, and others having Offices, Cures and Dignities spiritual, may, by Authority of this Act, and not by virtue of any foreign Power or Authority, use and exercise all things pertaining to their Dignities, Offices, Orders, Cures, &c. And may use all Tokens, Ensigns, and Ceremonies, which they have been accustomed to use in time past (so it be not expressly against the Laws of God and this Realm.)

It is likewise Enacted, “That all the King's Subjects who have purchased and obtained any Bulls, Breves, Faculties, &c. — from the See of

"*Rome, as Pluralities, Unions, Commendams, &c.* — may, by Authority of this Act, and not by virtue of the said Bulls, &c. enjoy all the Effects contained and specified in such Bulls, &c. in all such Cases only as may be dispensed with by the *Archbishop of Canterbury*, by Authority of the Laws and Statutes of this Realm: which Bulls and Faculties shall be delivered up to such Persons as the King shall appoint; and if, upon due Examination, it shall appear, that the Effects specified in them may be lawfully granted by the *Archbishop of Canterbury*, then the King's said Subjects, upon their humble Suit, shall obtain — by sufficient Writing in due Form to be made, and to be sealed under the King's Great Seal, all such Effects specified in such Bulls, as may be granted by the *Archbishop of Canterbury*, by the Authority of the Laws and Statutes of this Realm.

Now this Act being plainly of greater Latitude than 25 H. 8. as extending not only to all such Causes and Matters as the Power there granted to the Archbishop extends to, but to several others, it is reasonable to suppose, that some mention would here have been made of *Degrees*, had any of the King's Subjects at that time been *Doctors*, or otherwise graduated by the *Pope's Authority*; especially among the *Dignities, Offices, and Preeminences* to which the 2^d and 3^d Section relate, and where all other Ranks and Orders of Men, who owed their Titles to the *Pope*, are (as I believe) plainly named or described; in which number one would naturally expect to find such as had been then taken and reputed for *Doctors, or other Graduates*; by virtue of some *Bulls* or *Faculties* received from the *See of Rome*.

But, since there is nothing in all this Act, that can be construed to point particularly at *Degrees*, it would be proper to enquire, whether at the time when all manner of *Bulls* and *Faculties* were to be delivered up to the King's Commissioners, according to the direction of this Act, in order to their being confirmed by new Writings under the Great Seal, any *Faculties for Degrees* were brought in; and whether the Persons, who brought them in, were allowed under the Broad Seal to enjoy the same Titles and Honours, as had been before conferred upon them by their *Faculties from the Pope*: Could any one Instance of this kind be produced, it would be of weight in the present Dispute; and if there were any such at that time, some or other might probably now be found, at least some Account of such an Instrument; since all Persons, who had any Instruments then granted under the Broad Seal, by virtue of this Act, would be sure to take care to see them registered, and to preserve the Originals very safe.

It may be likewise further observed upon this Act, that no Persons being allowed to enjoy the Effects contained in any *Bulls, Breves, or Faculties* granted by the *See of Rome*, in any other Cases but such only as might be dispensed with by the *Archbishop of Canterbury*, by Authority of the *Laws and Statutes* of this Realm; and there being no other Law or Statute of the Realm then in force, which gave the *Archbishop* a Power to dispense in any case whatever, but the 25 H. 8. From hence it plainly seems to follow, that the whole Power granted by 25 H. 8. to the *Archbishop*, is properly a dispensing Power, and related entirely to such Matters (how various soever in their kinds) where some Stop, Relaxation, or Change of the usual Course of the Law, is, in certain Cases, judged requisite to be made; and consequently conferring *Degrees* can never come within

within the general Purport and Intention of this Act : But, if it gives *the Archbishop* any Power at all in relation to Degrees, it must be (as hath before been observed) to dispense with the want of them in such Persons, where the Law requires that they should be *Graduates*; which Power, I believe, was never yet exercised, or claimed, by any *Archbishop of Canterbury*. And, if the *Archbishop's Right* to confer Degrees is not derived from *that Act*, I know no other Law or Statute of the Realm that gives it him.

This Observation is entirely confirmed by the *Commission or Letters Patents* granted in pursuance of the Act; and lodged in the Office of the Rolls, whereby "the said King appointeth — , all three Masters of the Chancery, to receive all *Bulls, Breves, and Faculties*, which shall be rendered up by any of the King's Subjects — and to try and examine whether the Effects of the said *Bulls, Breves, and Faculties* be contained under the compass of such Cases as *the Archbishop of Canterbury may dispense withal by the Laws of this Realm*" — And this according to the Meaning of an *Act of Parliament* held at *Westminster* 8° Junii.

For further corroboration of the Act made 28. and another made 33. of 35 H. 8. c. 1. the King, in cap. 10. of this last Act, a new and stronger Oath is required to be taken in place of the former, by every Person that shall have any Office — every Ecclesiastical Person taking Orders, — and every Person which shall be promoted or preferred to any *Degree of Learning* in any *University within this Realm*, &c. as in the said former Act.

In an *Act of the 37th of this Reign*, it is Enacted, "That all and singular Persons — being *Doctors of Civil Law*, lawfully created and made in any *University* — may lawfully exercise all manner of Ecclesiastical Jurisdiction — albeit such Person or Persons be Lay, married or unmarried, so that they be *Doctors of the Civil Law*, as is aforesaid.

Whether this Act does restrain the Exercise of Ecclesiastical Jurisdiction to *Doctors* or not, 'tis certain that no other Doctors were then thought of or intended, but such as were *lawfully created in some University*.

In the Repeal of this Act 1, 2 Phil. & Mar. and the Revivour of it 1 Eliz. it is said, only *Doctors of Civil Law*; from whence it may be fairly collected, that whatever Degrees are mentioned in any *Act of Parliament*, without an express mention of the Universities at the same time, it ought to be understood of such Degrees as were taken in *some University*.

At the End of the Service-Book established by Edw. 6. it is said, "In all Cathedral Churches and Colleges the Archdeacons, Deans, Provosts, Masters, Prebendaries and Fellows may use in the Quire, besides their Surplices, such Hoods as pertaineth to their several Degrees, which they have taken in any *University within this Realm*.

In an *Act made the 1st of Q. Mary*, which repeals All Statutes and Provisions made against the See of Rome — It is Provided and Enacted, That this Act shall not extend to take away or diminish the Privileges of the Universities of Oxford and Cambridge. So that even at this time, when the Pope's Power was re-established in its full Vigour and Extent, care was taken that it should not be exercised in any such manner as would in the least hurt the Universities, or diminish any of their Privileges. And therefore it may fairly be presumed, that, when this extravagant Power of the See of Rome was again abolished, the Universities were in no respect to be Sufferers by it.

^{1 Eliz. c. 2.} *An. 1. Eliz.* it is Enacted, "That such Ornaments of the Church, and
^{§. 25.} " of the Ministers thereof, shall be retained and be in use, as was in this
 " Church of England by Authority of Parliament in 2. Ed. 6.

^{1 Eliz. c. 1.} In the same Year an Oath of Supremacy is appointed to be taken by
^{§. 19.} all Bishops, every Ecclesiastical and Temporal Officer and Minister, &c.
 " and by every Person taking Orders—and every other Person, which shall
 " be promoted or preferred to any Degree of Learning in any Universi-
 " ty within the Queen's Realm or Dominions, before he shall receive or
 " take any such Orders, or be preferred to any such Degree of Learning.

^{5 Eliz. c. 1.} The same Oath is afterwards appointed to be taken by all manner of Per-
^{§. 5.} sons expressed in the former Act, and particularly "by all that have been or
 " shall be promoted, preferred, or admitted to any Degree of Learning in
 " any University within this Realm, or Dominions to the same belonging
 " — As also all manner of Persons that have taken, or shall take any Degree
 " of Learning in or at the Common Laws of this Realm — And every of
 " them shall take and pronounce the Oath aforesaid in some open Place
 " before a convenient Assembly to witness the same.

^{13 Eliz. c. 12.} By 13. Eliz. it is provided, that "None hereafter shall be admitted
^{§. 6.} " to any Benefit with Cure, of or above the Value of 30l. per Annum in
 " the Queen's Books, unless he shall then be a Batchelour of Divinity,
 " or — *Vid. infra* Bonham's Case.

^{7 Jac. I. c. 6.} By 7 Jac. I. an Oath is enjoined to be taken by all and every Person
^{§. 21.} that is or shall be promoted to any Degree in School, before the Vice-
 chancellour of the University in the Congregation house, and no Provision
 is made for any Persons who are admitted to Degrees (except in the
 Common Laws) to take the Oath elsewhere.

In all the Acts concerning Oaths, and especially this last, there is a
 most particular and exact Recital of all Ranks and Degrees of Persons,
 who are obliged to take them; but under none of the Heads of Distin-
 ction there mentioned can those who take Degrees by Faculty from the
 Archbishop be comprehended. And no Account can be given why they
 should be exempted.

By what Authority therefore the Oaths of Allegiance and Supremacy
 are now administered by the Archbishop, or the Master of the Faculties,
 to those upon whom His Grace is pleased to bestow Degrees; and how
 these Oaths come to be administered in a private Place, where there is
 no Assembly to witness the same, I am at a loss to know; and, if there
 be a want of Power in the Archbishop to give the Oaths, which all
 Graduates are appointed to take, this alone seems to imply a want of
 Power in him to give Degrees.

^{13, 14 Car. 2.} The same Order is made in the Rubrick before the Common-Prayer,
 as in 1. Eliz. and 2 Ed. 6.

^{17 Car. 2. c. 3.} Entituled, *An Act for uniting Churches in Cities and Towns Corporate.*
^{§. 6.} It is provided that every Minister of Churches and Chapels united ac-
 cording to this Act shall be full and lawful Incumbent thereof, so as
 such Minister be a Graduate in one of the Universities of this Kingdom.

^{22, 23. Car. 2.} Entituled, *An Act for laying Impositions on Proceedings in Law.*
^{c. 9. §. 71.} "For every Dispensation, to hold two Ecclesiastical Dignites, 15s.
^{§. 72.} "For every other Dispensation, which shall be passed by the Lord
 " Archbishop of Canterbury, or the Master of the Faculties, 10s.

No Tax is here laid upon Degrees taken in the University, from whence
 as well as from the Title it self of the Act, it seems very evident that
 it was not the Intention of this Act to tax any Degrees at all.

Then

Then the Words *every other Dispensation*, &c. plainly shew, that all manner of Instruments or Writings, which are passed by the Master of the Faculties, are, in the Eye of the Law, no other than *Dispensations*; because every Faculty or License, which passed under the Seal of the Archbishop's Faculty-Office, was taxed by this Act.

In that which is commonly called *the Stamp-Act*, it is said,

"For every Piece of Parchment — or Paper, upon which any Register, Entry, Testimonial or Certificate of a Degree taken in either of the Universities, or Four Inns of Court, shall be ingrossed or written. 5 & 6 W. & M. c. 21. §. 3.

"On which any Dispensation to hold two Ecclesiastical Dignities or any other Dispensation or Faculty from the Archbishop, or the Master of the Faculties, is ingrossed or written, 40 s.

Now it is plain from hence, that it was the Intention of this Act to lay a Tax upon *all Degrees* whatever; and yet that *Degrees given by the Archbishop* were not thought of; both because *Dispensation* and *Faculty* are here used as Words of the same import; and because no *Testimonial or Certificate of a Degree taken by Faculty* is taxed, as all Certificates of other Degrees are.

In the Journals both of *Edw. 6.* and *Q. Eliz.* we find (says Bp. Gibson) a Bill depending in Parliament, that Administration of Laws may be made by *Graduates in the University*. Gibson's Cod. Jur. p. 1031.

The Archbishop cannot, by virtue of that *Act of 25 H. 8.* which concerns *Dispensations*, do all things that the Pope did de facto; but the Statute is to be understood of those things as the Pope was, by the erroneous Opinion of that Time, supposed to do lawfully in mere Spirituals — The Archbishop is restrained to those things only that the Pope did quasi Jure, that is, in *Spiritualibus only*.

And in Heads and Cases, which were accounted spiritual the Archbishop is restrained by the Statute — that nothing be done against the King's Prerogative, the Laws and Statutes of the Realm in general — And that no *Dispensations* be granted but to such Persons as ought of a good, just, and reasonable Cause, to have the same.

Now 'tis certain, that tho' the Pope did de facto give Degrees, yet he never was supposed to do it lawfully, in order to qualify Persons for Ecclesiastical Preferment in *England*; because it was contrary to Decrees both of *General Councils*, and an *English Synod*, then in force, to grant Degrees for any such purpose. Neither can giving Degrees be reckoned among the mere Spirituals, which were the only things in which the Pope did lawfully or quasi Jure exercise his Power in this Country: neither were there any Persons here who ought of a good, just and reasonable, Cause to have Degrees from *Rome*, because it was better, more reasonable, and more agreeable to the Laws of the Land, to have them from one of the Universities within this Realm. And therefore the Archbishop cannot, by virtue of this *Act*, confer Degrees; nor can the Statute be understood, were such a Power as this consistent with the King's Prerogative; but this I think it is not, because the Power of erecting Universities, and enabling them to give Degrees in Learning, was an undoubted Prerogative of the Crown long before this Statute was made.

Dodderidge the King's Serjeant, in his Pleadings for Dr. Bonham against the College of Physicians, says — "the Statutes of this Realm have always had great respect to the Graduates of the University; and it is

13 Eliz c. 12.
Brownlow &
Goldsborough. Dr.
Bonham's Case,
"not A. 1609.

" not without cause; for *sudavit & alit*, and hath no other Reward;
 " but this Degree, which is Doctor. And for that the Statute 21 H. 8.
 " prefers *Graduates*, and provides that *Doctors of Divinity or Batchelors*
 " shall be capable of two Benefices with Cure — and so 13 Eliz.
 " provides, that none shall be presented to a Benefice above 30 l. per
 " Ann. if he be not a *Doctor or Bachelor of Divinity*.

From whence it is very plain, that Serjeant Dodderidge by *Bachelor in Divinity* in 13 Eliz. understood such as had taken their Degree in *one of our Universities*, tho' it be not so expressed in the Act; because he understands it in the same Sense in this Act as in 21 H. 8. where the *Universities* are named.

Justice Walmesley, in his Argument upon the same Case, says, that
 " 14 H. 8. c. 4. excepts only those which are *Graduates of Oxford or Cambridge* (from being examined by the College of Physicians) which
 " have accomplished all things for their Form without any Grace; and
 " if this Exception shall be intended to extend to others, then all the U-
 " niversities shall be excepted by it, and this Exception is too general." From which Reasoning 'tis very evident, that this Learned Judge knew of no other Degrees but what were taken in *some University* or other.

As before 25 H. 8. it was ordered by *Popish Councils*, that Ecclesiastical Dignities and Benefices should be given to such as had taken *Degrees in some University*, without the least regard shewn in any such Constitutions to *Degrees conferred by the Pope*; so in the *Council of Trent*, the last General Council, and which is of highest Authority in the *Romish Church*, the same good Orders and Provisions were made with relation to *Degrees in the Disposition of Ecclesiastical Preferments, viz.*

Conc. Trid. " Quicunque posthac ad Cathedrales Ecclesias erit assumendus — sci-
 Seff. 22. de " entia hujusmodi polleat ut muneris sibi injungendi necessitatibus possit sa-
 Reform. c. 2. " tisfacere; ideoque antea in *Universitate Studiorum Magister* sive *Do-
 An. 1562. " ctor*, aut *Licentiatus* in sacrâ Theologiâ, vel Jure Canonico merito sit
 " promotus;" with divers other Constitutions of the like kind. *Vid. Seff.*
 24. de Reform. c. 12. & Seff. 25. c. 5.

An. 1568. And a few Years after, Pope Pius V. in pursuance of these Decrees — *Decretis Concilii Tridentini inherentes* — (as he expresses it) published a *Bull*, wherein he *annulls* and *makes void* all former *Bulls*, granted by himself, or any of his Predecessors, to any Person or Persons, of what Dignity or Order soever, which empower'd them to make *Do-
 ctors, Licentiates or Masters*; and declares those who were promoted to any Degrees by virtue of such *Bulls*, *Quoad Beneficia Ecclesiastica nullâ Gradus prærogativâ frui & gaudere posse*.

These Passages are not brought to explain the Statute 25 H. 8. but, being conformable to the Regulations made by Councils held before that time, are evident Proofs, that in all Attempts made for Reformation, giving *Degrees of Learning*, by *Bull, Faculty, or Commission*, or any other way than by the regular Methods used in *Universities*, was constantly looked upon by *Papists*, and often owned by *Popes* themselves, to be an *Abuse*, fit to be reformed; and that no such *irregular Degrees* ought to be esteemed proper *Qualifications* for any Dignity or Benefice in the Church. And therefore, when this Abuse has been long ago condemned and taken away in the *Church of Rome*, and, when Degrees given by *Papal Bulls or Faculties* do not qualify Persons for Preferment in any *Popish Country*, where Degrees are required in the Persons preferred, it is

is to be hoped, that no Degrees, built purely upon *Papal Authority*, will now be allowed to pass for *Legal Qualifications*, in this *Reformed Country*, which were not suffered to take place here even before the *Reformation*.

**ADVERTISEMENTS or ARTICLES agreed upon, and
subscribed, by Matthew, Archbishop of Can-
terbury, and others, and enjoined by the
Queen's Letters, An. 1564.**

“The Bishop, against the Day of giving Orders appointed—shall give Sparrow's Collection, 1684.
“notice, that none shall sue for Orders but within their own Diocese,
“where they were born, or had their long time of Dwelling, except
“such as shall be of Degree in the Universities.

“All Deans, Archdeacons, &c.—Doctors, Batchelors of Divinity
“and Law, having Ecclesiastical Living, shall wear a Side Gown with
“Sleeves in their own common Apparel abroad—and Tippets of Sar-
“cenet, as is lawful for them by the Act of Parliament 24 H. 8.

“All Doctors of Physick, or of any other Faculty, having any
“Living Ecclesiastical—shall wear the like Apparel. Vid. 24. H. 8.
“c. 13. before cited. By which it appears, that the Graduates here
meant are such as have taken their Degrees in some University; because,
by that Act, no other Graduates were allowed to wear such Apparel,
as is there mention'd.

Liber quorundam CANONUM — in quos plenè consensum
est in Synodo à Matth. Archiepisc. Cant. & reliquis omnibus
eius Prov. Episcopis, A. 1571.

“Decanus, Archidiaconus, &c.—in Ecclesiis quisque suis utentur
“Scholasticā Epomide, quæ suo conjugue Scholastico Gradui & Loco
“conveniat.

“Archidiaconus non substituet sibi Officiale quenquam, nisi qui in
“Academiâ fuerit educatus, & Juri Civili operam dederit.

“Archidiaconus & Officiales — in Visitationibus vocabunt Clerum
“ad rationem—Et, quicunque ex illo Ordine ad Magisterium Artium
“in Academiis non attigerint, illis proponet partem aliquem Novi Testa-
“menti memoriter ediscendam—

“Quivis Cancellarius, Commissar. & Official. erit institutus in Legibus
“Ecclesiasticis, qui in Scholis Doctrinæ nomine Gradum aliquem
“suscepit.

“Cancell. &c.—curabunt — ut Rect. Vicar. &c. sibi Libros Or-
“dini & Professioni suæ congruentes comparent, ut quicunque ad Ma-
“gisterium Artium non accesserit (Vid. supra p. 229.) emat sibi Libros
“duos Novi Testamenti — ut illorum quisque memoriter ediscat pensam,
&c. Vid. Injunct. 1547. p. 7. & 1559. p. 72.

ARTICULI pro Clero per Archiepiscopum, Episcopos, & Clerum
— in Synodo stabiliti, Anno 1584.

Pag. 193. " Ne quis Episcopus posthac aliquem in Sacros Ordines cooptet, qui
" non ex suâ ipsius Diæcesi fuerit, nisi vel ex alterâ nostrarum Academiarum prodierit — vel nisi Litteras Dimissorias — artulerit —
" ac etiam in alterâ dictarum Academiarum Gradum aliquem Scholasticum suscepereit —

CAPITULA sive CONSTITUTIONES Eccles. per Archiepisc. Episcopos & Clerum — in Synodo tractatae Anno 1597. ac postea per Regiani Majestatem confirmatae, & utrique Provinciae promulgatae.

Pag. 245. " Ut Homines idonei ad Sacros Ordines & Beneficia admittantur; " the same Order is made as before, Ann. 1584. p. 193. and in the very same words —

P. 229. 231. Now from these two Constitutions made Ann. 1584. and 1597. and
from the two other Canons agreed upon An. 1571. as also from the
P. 7. 72. Injunctions of K. Edw. An. 1547. and of Q. Eliz. An. 1559. it must
be concluded that, if there were in those Times any Batchelors, or
Doctors of Divinity, Law, or Physick, created by Faculty, they were
ranked, both by the Crown, and the Synod, in a lower Form than
Masters of Arts, and even then such as had taken any Degrees inferiour to that in the University.

CONSTITUTIONES sive CANONES Eccles. per Episcopum London. Praesidem Synodi Cantuar. tractati & conclusi, Anno, 1603.

Pag. 276. Can. 17. In omnibus utriusque Academiac Collegeis — Socii — Scholares —
in Ecclesiis, & Capellis, per Dies Dominicos & Festivos — tempore Divinorum superpelliceis utentur. Quotquot verò Gradum aliquem suscepereint Caputia suo cujusque gradui competentia superpelliceis suis superinducent. By Degrees here must necessarily be meant Degrees taken in either of the Universities.

Pag. 279. Can. 25. Ecclesiarum Collegiat. Decani, Magistri, & Prefect. itemque Canonici & Præbendar. (dummodo Graduati) cum superpelliceis caputra Gradibus suis respective congrua inter Rem Divinam gerere tenebuntur.

From the foregoing Canon, and from the Statute of Ed. 6. before quoted, 'tis plain that the Degrees meant in this Canon must be Academical Degrees. Vid. infra Can. 58.

Pag. 285. Can. 33. Ne quis deinceps in Sacros Ordines admittatur, nisi — vel nisi si dem fecerit se esse actu Socium — vel designatum Capellanum in aliquo Collegio Cantab. vel Oxon. vel etiam ad Magistri Gradum ante Quintuennium proiectum, suis ibidem sumptibus degere, vel nisi —
" Ne quis Episcopus in Sacros Ordines quenquam de cetero cooptabit,
" qui non — &c. ac etiam in alterâ dict. Academ. Gradum aliquem Scholasticum suscepereit.

" Nemini

“ Nemini in posterum Facultas seu Dispensatio concedetur de pluribus
 “ — Beneficiis curatis simul retinendis, nisi tali duntaxat qui pro Ernu-
 “ ditione suâ dignior, & ad Officium suum plenius præstandum habilis &
 “ idoneus censebitur; nimirum qui ad Gradum Magisterii ad minus in
 “ alterâ nostrarum Academiarum promotus fuerit.

Pag. 289.
Can. 41.

“ Quotquot ex Ministris Gradum aliquem in Academiâ suscepint, ii
 “ inter sacra peragenda superpelliceis suis adjicient & Caputia singu-
 “ lorum Gradibus convenientia, quorum tamen usu Ministris minimè
 “ Graduatis sub pœnâ Suspensionis interdicimus —

Pag. 296.
Can. 58.

“ Nullus in posterum ad Officium Cancellarii, Commiss. vel Official. ad-
 “ mittetur, nisi qui — in Jure Civili & Canonico eruditus existat, sit
 “ que ad minimum Magister Artium aut in Jure Baccal. — Vid De-
 “ cret. An. 1430. & Can. 1571. Vid. etiam 37 H. 8. cap. 17. and Jour-
 “ nals of Parliament in Ed. 6. and Q. Eliz. time before cited. All which
 “ do plainly shew, that, in the opinion both of Parliaments, and Convoca-
 “ tions, the Degrees necessary to qualify Persons for the Exercise of
 “ Ecclesiastical Jurisdiction can be no other than such as are taken in
 “ Schools or Universities.

Pag. 327.
Can. 127.

From this Collection of Canons it manifestly appears, that the several *Archbishops*, by whom they were approved, and by whose direction chiefly they were framed, have frequently, in divers Instances shewn a great respect to *Academical Degrees*, without the least regard had to Degrees conferred any other way. Of which no other Account can be given, but either, that they did not then pretend to any Power of conferring Degrees themselves; or, if they did, that they did not look upon such Degrees as proper Qualifications, in any of those Instances where they judged Degrees in Learning requisite.

That one of these Suppositions is true, seems very evident to me from what I find in a Book written by *Archbishop Parker's Chaplain*, or rather by the *Archbishop himself*, (who was the first *Archbishop* after the Revivour of the Act of 25 H. 8. and a strenuous Assester of the Rights and Privileges of his See) styled, *De Antiq. Brit. Eccles. & nominatum de Privilegiis Eccles. Cantuar. &c.* For in this Book, where his express Design is to reckon up and enumerate all the *Privileges and Prerogatives* then belonging to the See of *Canterbury*, he not only makes no mention of this Power of conferring Degrees; but he gives such an Account of the Purport and Design of that Act, upon which it is now founded, as can by no manner of Construction take in or include this Power. His Words are, viz.

Henricus 8. Rex, Anno Domini 1534. exclusâ & exactâ suo regno tot
 annis usu captâ autoritate Papali — multisque Papalibus ceremoniis
 deletis, Cantuar. Sedis Prerogativam, lege tam suâ quam populi con-
 sensu latâ, stabilivit, totumque illud Legum rigorem mitigandi fuit,
 quod Dispensare dicitur, quod usucapione sibi Romanus Pontifex vindicavit & usurpavit, in Archiepisc. Cantuar. simili lege latâ transtulit.
 In quâ lege cautum est ne præter divina, Regisque atque Regni avita
 Jura, Cantuar. Archiep. quicquam decerneret.

Antiq. Brit.
P. 30.

Hanc igitur tam latè patentem Jurisdictionem (sc. antea descriptam) ut absolveret, Fora varia & Tribunalia ordinavit, quæ doctis peritisque
 Judicibus, Advocatis, Procuratoribus, Scribis, Notariis & Actuariis
 ad Causas agendas & Judicia reddenda paravit & instruxit.

And here, having given an Account of all the other Courts belonging to the *Archbishop*, he writes thus:

Tandem,

Pag. 32. *Tandem, ejēctā prorsus Autoritate Papali, cūm Henricus Octavus, ut diximus, Juris Eccles. moderationem & aequitatem lege latā in Cantuar. Archiepisc. posuisset, constituta nova Cūria est; cui & Iudex Præfectus, qui desideria cognovit eorum, qui Juris quandoque rigidi atque stricti relaxationem petunt, & Registrarius, qui concessas Dispensations in scripta refert: Ille Magister seu Custos Facultatum, hic eorum Registrarius appellatur.*

Pag. 33. *His Privilegiis, Prærogativis, Eminentibus, Immunitatibus, Tribunibus atque Curiis Cant. Archiepisc. Dignitas tanquam suis numeris perfecta & absoluta constat; quarum rerum fides ne dubia & incerta sit, sciendum est, ea partem ex Archivis Turris Londinensis, partim ex domesticis Archivis in publicâ Cantuar. Sedis custodiâ repositis, desumpta fuisse.*

Pag. 30. *In Curiâ de Arcubus —— Doctores Legum in celebri aliquâ Studiorum Univ. ordinantur, antequam ad hoc tam insigne Tribunal accedunt.*

There is now preserved in the Archives of the Church of Canterbury a MS. styled *Registrum Facultatum à Matt. Parker Archiepisc. Cant. concessarum*; but it cannot be concluded from any Entries in this Book (in which are contained abundance of all other kind of Faculties during the space of about six Years) that *Archbishop Parker* did ever confer Degrees. There seems indeed to have been a Design of procuring a Faculty for a Degree from that *Archbishop* a little before his Death; but there is good reason to believe that such Degree was never granted; and, if it were, 'tis very certain, that it was granted to no manner of purpose: as shall be shewn to a Demonstration, whenever such proof is demanded; which is now omitted, only because it is too long, as well as unnecessary.

Strype's Life
of Parker,
p. 422. An.
1573. But that *Faculties for Degrees* were not in use in *Parker's time*, is very plain from his Answer to *Cartwright's Book*, which clamour'd against the *Archbishop's Courts*, and the *Faculties and Dispensations* issuing thence, where he writes thus:

Pag. 423. *As to the Faculty-Office; the Prince hath established by Parliament the Laws Ecclesiastical, not repugnant to the Word of God, nor contrary to the Laws of the Realm.*

The Prince hath Authority in those cases, which by the Ecclesiastick Law were reserved to the Pope.

The Execution of Law in several of these Cases —— is referred, not to the Person of the Prince, but to the Person of the Archbishop of Canterbury, so authorized —— by Authority of the High Court of Parliament.

Of the number of those Cases reserved be those, which do pass by Dispensation in Her Highness's Court of Faculties, which in manner are these now in use only.

A Commen-
dam. “A Dispensation for a Bishop to retain or receive any Ecclesiasti-
“cal Living in Commendam. The Tax is 16l.

A Plurality. “A Dispensation for those which are qualified either by the Prince, by
“Noblemen, or by Degree of School, to receive two Benefices with Cure.
“6l 10.s. And with this Clause: *Quod in uno Beneficiorum tuorum pro
“arbitrio tuo residendo, in alio residere minimè tenearis.* 7l. 13.s. 4d.

A Triality. “A Triality, to have two Benefices with Cure, and a third to be
“a Benefice, a Prebend, or Dignity, which hath no Cure. Tax 9l.
“Quadrallities, or Tot Quots, we grant none.

“For

" For him that is not born in *lawful Matrimony*, to be made *habilis Legitimationis ad Ordines Eccles. & recipere Beneficium*. Taxed at 4*l.*

" To take a Prebend or a Benefice without Cure, is not granted to any *Pro Minore under the Age of 18 Years*. The Tax is 4*l. 6s. 8d.* Altho' by the Book of Taxations such Dispensations might be granted from 10 Years

" of Age, and so upward to a far greater Gain.

" For such Persons as enjoy Ecclesiastical Livings, and are occupied in the common Affairs of the Realm. Tax 4*l.* De non promovendo ad Ordines.

" Non-residence is not granted to any but upon just Cause; which Cause is expressed in his Dispensation (*viz.*) for Recovery of Health, &c. The greatest Tax is 53*s. 4d.* Denon residendo.

" A *perinde valere* is granted in Cases of lack of Dispensation, or when the former Dispensation was insufficient, or when the Party hath by some Act incurred the Ecclesiastical Censures, or is made *inhabilis either ad retinendum, or ad recipiendum Beneficium Eccles.*

Tax 6*l.* Perinde valere.

" For a Person to be admitted to receive the Orders of Deacon and Priest at one time. Tax 13*s. 4d.* Ad utrosque Ordin. simul.

" To give leave to a Clerk to seek his Bishop to take Orders. Tax 6*s. 8d.* Litt. Dimissio foriæ.

" None may marry but in their own Parish Churches in Times prohibited, nor without Banes be three several Holydays proclaimed, but by Dispensation, either from the Faculties or from the Ordinary

" None, without offending the Laws, may eat Flesh upon Days forbidden, but by Dispensation either from the Faculty forever, or from the Ordinary, or Curate, for Time limited. Tax 40*s.* Ad esum carnium.

" The Creation of Notaries Publick. Tax 13*s. 4d.* Creatio Notariorum Publicorum.

" In all which Dispensations the Archbishop referreth himself to the Judgment of the Queen's Highness and her Honourable Council.

And that this was a true and exact Account of all the Faculties and Dispensations, which were then granted, or were looked upon by the Archbishops to be duly and legally grantable, is confirmed by the like Account given of this matter, about three Years after, by *Archbishop Grindall*, in the two following Papers presented to the Lords of the Council. Diligentiores etiam Opes Quibusque.

I. Dispensations left to the Consideration of the Lords of the Pap. I. Council.

At Commendam. It is to be considered, whether this kind of Dispensation may have continuance, being used in this case only, where certain of the smallest Bishopricks want Sufficiency for Maintenance of the Bishops, and therefore have need of some Supply.

2. A Plurality. It is also to be considered, whether this Dispensation may have continuance, so as only learned Men, being Batchelors of Divinity, or Preachers lawfully allowed, may enjoy the same; the Distance between the

" Benefices

Strype's Life of Abp. Grindall, p. 202, 203.

"Benefices not exceeding twenty Miles: With a Proviso
"also, that the Party dispensed withal preach at the Bene-
"fice, whereupon he commonly dwelleth not, thirteen Ser-
"mons every Year, according to the Queen's Injunctions;
"and also keep Hospitality there eight Weeks in every Year
"at the least.

3. Legitimation. This kind of Dispensation, which is the enabling
"of Men base born to take Ecclesiastical Orders and Pro-
"motions, seemeth not convenient to be used; but where
"there is good Proof of great Towardness in Learning, and
"of godly Disposition in the Party so dispensed withall;
"For that Bastards seldom prove profitable Members of
"God's Church: Which is likewise to be considered of in
"the said Case.

4. Non-residence. To be considered, whether this Dispensation may
"be granted for some short Time only, for Recovery of
"Health, or such like urgent Cause, and not during Life,
"or for any long Time, as it hath been heretofore used.

5. License to eat Flesh. Whether this be to be continued for some
"Persons.

6. Creation of Notaries. Whether this Faculty be to be retained
"still in Actuaries and Scribes, and whether not to be added

7. De non promovendo. Whether, in case of the Prince's Service,
"this Dispensation may be granted to a Doctor of the Civil
"Law, to enjoy some kind of Ecclesiastical Promotion,
"notwithstanding he be not within Orders.

II. Dispensations to be utterly abolished.

**1. Trialities, and Faculties for more Benefices, or for so many as
"the Parties could get,**

**2. Dispensations for Children, and young Men under age, to take
"Ecclesiastical Promotions.**

**3. Dispensations called by the name of *Perinde valere*, making
"Grants good, which by Law were void, and had Right**

4. Dispensations to take all Orders of the Ministry at one time.

**5. Dispensations to take Orders out of their own Diocese at any
"other Bishop's hands.**

**Licenses to marry without Banes asking, and out of the Parish-
"Church of any of the Parties.**

**And for the better understanding of the State of this Faculty-Office,
and the various Dispensations granted out of it, and the respective Fees,
a Table hereof was drawn out for the Inspection and Consideration of the
Privy Council. Which is here transcribed.**

The

The Faculty-Office: The Dispensations with their Prices. MS. Grindall.

Append. to
Life of Grin-
dall.

Dispensation and Tax.	To the Queen.	Chancellor.	Clark.	Archbishop	Commissary.	Register.
Commendam 16 <i>l.</i>	8 <i>l.</i>	3 <i>s. 6d.</i>	17 <i>s. 9d.</i>	3 <i>s. 11d.</i>	17 <i>s. 9d.</i>	17 <i>s. 9d.</i>
Plurality. 6 <i>l. 10s.</i>	3 <i>l.</i>	13 <i>s. 5d.</i>	7 <i>s. 2d.</i>	28 <i>s. 10d.</i>	7 <i>s. 2d.</i>	7 <i>s. 2d.</i>
Legitimation 4 <i>l.</i>	43 <i>s. 4d.</i>	8 <i>s. 10d.</i>	4 <i>s. 5d.</i>	17 <i>s. 8d.</i>	4 <i>s. 6d.</i>	4 <i>s. 6d.</i>
Non-residence 2 <i>l. 13s. 4d.</i>	30 <i>s.</i>	Nil.	3 <i>s. 4d.</i>	8 <i>s. 10d.</i>	4 <i>s. 5d.</i>	4 <i>s. 5d.</i>
Licence to eat Flesh 40 <i>s.</i>			3 <i>s. 4d.</i>	6 <i>s. 8d.</i>	3 <i>s. 4d.</i>	3 <i>s. 4d.</i>
Creation of Notaries 13 <i>s. 4d.</i>	Nil.	Nil.	4 <i>s. 5d.</i>	Nil.	4 <i>s. 5d.</i>	4 <i>s. 5d.</i>
<i>De non promovendo;</i> that is for a Dr. of Civil Law to enjoy some Ecclesiasti- cal Preferment, 4 <i>l.</i>	43 <i>s. 4d.</i>	8 <i>s. 10d.</i>	4 <i>s. 5d.</i>	17 <i>s. 8d.</i>	4 <i>s. 6d.</i>	4 <i>s. 6d.</i>

Trialities, 9*l.*

As many Benefices as *The Tax here much greater according to the Qua-*
the Party could get *lity of the Grant.* A

Dispensation for Children and young Men under Age, to take Ecclesiasti-
cal Benefices. If the Party were 18 Years of Age, or more, 14*l. 16s.*
8*d.* If under 18 Years of Age, much greater.

Perinde valere; that is, making Grants good, which by Law, were void,
and a Right grown to some other Person, 6*l.*

Dispensation to take all Orders together, 13*s. 4d.*

Dispensations to take Orders out of ones own Diocese, 6*s. 8d.*

Licenses to marry without Banns, 10*s.*

These Propositions of the Archbishop concerning his Faculties, toge-
ther with their respective Prices or Fees, were allowed and approved
of by the Queen's Council; as appears by an authentick Entry in the
Council Books, Jan. 15. 1578. when the Lords of the Council "ha-
"ving perused the Original of a certain Order taken and subscribed
"by

"by their Lordships the 20th of June in the Year of our Lord God 1576,
"their Lordships pleasure was, that the same should be registered and en-
tered into the Council-Book as followeth.

The 20th of *Dispensations to be utterly abolished as not agreeable to Christian Religion
in the Opinion of the Lords of the Counsel.*

Trialities; and Faculties for moe Benefices, or so many as the Parties
could get.

The Taxe of Trialities was ix^l .

The Taxe of thother much greater according to the Qualitie of
the graunte to be devided after the rate of the others.

Dispensations for Children and younge Men under Age, to take Eccle-
siastical Promotions.

The Taxe whereof, the Party being $xviii.$ yeres of Age and
more was, $iiij^l. vj^s. viij^d.$

The Taxe much greater, the Parties being under $xviii.$ Yeres.
Dispensations called by the Name of Perinde Valere making Graunts
good which by Lawe were voide, and a Right growne to some
other Person.

The Taxe whereof was vj^l .

Dispensations to take all Orders of the Ministry at one time.

The Taxe whereof was, $xij^l. iiiij^d.$

*Dispensations to take Orders out of their own Diocesse at any other Bi-
shoppes Handes except where he was borne or where he hath
been most usually for two Yeres.*

The Taxe whereof was, $vj^l. viij^s.$

*Licenses to marry without Banes asking, and oute of the Parische Churche
of any of the Parties.*

The Taxe whereof was, x^l .

*Dispensations left to the Consideration of the Lords of the Counsell,
and by them allowed as they be here qualified.*

A Commendam. It is to be considered, whether this kinde of Dispensation
may have Continuance, being used in this case only, where certaine
of the smallest Bishoprickes wante Sufficiencye for Maintenance of
the Bishoppes, and therefore have nede of some Supply. The Taxe
whereof is xvj^l to be devided thus, *viz.*

To the Quene, $viij^l$

To the Lord Chauncellor, $xxxv^s. vj^d. q.$

To the Clerke, $xiv^s. ix^d. ob. q.$

To the Archebishop, $ijj^l. xj^s. ii^d.$

To the Commissary, $xvij^s. ix^d. ob. q.$

To the Register, $xvij^s. ix^d. ob. q.$

A Dualtie. It is to be considered, whether this Dispensation may
have Continuance, so as only lernid Men, being Bachelers of Divi-
nitie, or Preachers lawfully allowed by the Bisshop, where the se-
conde Benefice is, may enjoie the same, the distaunce betwene the
Benefices not exceeding 20th Miles; with a Proviso also, that the
Partie dispensed withall, preache at the Benefice whereupon he dwel-
leth not, $xijj.$ Sermons every Yere, upon Sondayes and Hollidais,
according to the Quenes Injunctions, and also kepe hospitalitie there
8. wekes in every yere at the least.

The

The Taxe whereof is $vij^l.$ $x^s.$ to be divided thus; viz.

To the Quene, $iiij^l.$

To the Lord Chauncelor, $xiiij^s.$ $v^d.$ $ob.$

To the Clerk, $vij^s.$ $ij^d.$ $ob.$

To the Archebisshop $xxvij^s.$ $x^d.$ $ob.$

To the Commissarie, $vij^s.$ $ij^d.$ $ob.$ $q.$

To the Register, $vij^s.$ $ij^d.$ $ob.$ $q.$

A Legitimation. This kinde of Dispensation, which is the enabling of men base borne to take ecclesiastical Orders and Promotions, semeth not convenient to be used but where is good prooef of grete towardnes in Lerning and of godlie Disposition in the Partie so dispensed withall; for that bastardes seldome prove profitable members of Gods Church: which is likewise to be considerid of in the said case.

The Taxe whereof is $iv^l.$ to be divided.

To the Quene, $xliij^s.$ $iv^d.$

To the Lord Chauncelor, $vij^s.$ $x^d.$ $ob.$

To the Clerck, $iv^s.$ $v^d.$ $ob.$

To the Archebisshop, $xvij^s.$ $vij^d.$

To the Commissarie, $iv^s.$ $vij^d.$

To the Register, $iv^s.$ $vij^d.$

Non-Residence. To be considerid, whither this Dispensation may be graunted for some shorte tyme only, for recoverie of helth, or such like Urgent cause, and not during Life, or for any longe time, not exceeding one Year, as it hath ben heretofore used.

The Taxe whereof is $liij^s.$ $iv^d.$ to be divided

To the Quene $xxx^s.$

To the Lord Chauncelor, *nihil.*

To the Clerck, $iiij^s.$ $iv^d.$

To the Archebisshop, $vij^s.$ $x^d.$ $ob.$

To the Commissarie, $iv^s.$ $v^d.$ $ob.$

To the Register, $iv^s.$ $v^d.$ $ob.$

License to Eat Flesh. Whither this Dispensation be to be continued for some Persons.

The Taxe whereof is $xl^l.$ to be devided

To the Quene, *nihil.*

To the Lord Chauncelor, *nihil.*

To the Clerck, $iiij^s.$ $iv^d.$

To the Archebisshop, $vij^s.$ $vij^d.$

To the Commissarie, $iiij^s.$ $iv^d.$

To the Register, $iiij^s.$ $iv^d.$

Creation of Notaries. Whether this Facultie be to be retained in Actuaries and Scribes still.

The Taxe whereof is $xiiij^s.$ $iv^d.$ to be devided

To the Quene, *nihil.*

To the Lord Chauncelor, *nihil.*

To the Clerck, $iv^s.$ $v^d.$ $q.$

To the Archebisshop, *nihil.*

To the Commissarie, $iv^s.$ $v^d.$ $q.$

To the Register, $iv^s.$ $v^d.$ $q.$

De non promovendo. Whether, in case of the Princes Service, this Dispensation may be graunted to a Doctor of the Civil Lawe, to enioie some kinde of ecclesiastical Promotion, notwithstanding he be not within Orders.

Thought mete
that the eccl-
esiastical Promoti-
on be under-
stood such
as hath not
special Cure of
Soule.

The Taxe whereof is *ivl*. to be devide
to the Quene, *liij*. *ivd*.
To the Lord Chauncelor, *vij*. *x*. *ob*.
To the Clerck, *iv*. *v*. *ob*.
To the Archebisshop, *xvij*. *vij*.
To the Commissarie, *iv*. *vj*.
To the Register, *iv*. *vj*.

Bacon C. S. or *W. Burghley* *E. Lincoln.* *T. Suffex.*
Arundel. *J. Bedford.* *R. Leycester.*
J. Knollys. *Jamys Croft.*
W. Myldmay.

I have seen another Copy of this Original Order of the 20th of June, 1576. (from whence I have added the Names of the subscribing Lords) that was found among Archbishop Whitgift's Papers; which bye the bye is a Proof, that this was the Rule for granting Dispensations in his time, as well as his Predecessor's.

And that this Order was intended by the Lords of the Council for a standing Rule to be observed in all times to come, by the Officers concerned in granting Faculties, is plain from another Minute in the Council Books, of the same Date with what is before transcribed from thence, viz. "A Letter to Mr. Doctor Lewis, Master of the Faculties, that "He may without serving any special Warrant from their Lordships, "exercise the Faculties; provided that the same be in such points as "heretofore hath been allowed by their Lordships former Order, ac- "cording to a Minute remaining in the Chest." By which former Order must needs be understood, that of June 20. 1576. which it was their Lordships Pleasure should then be registered, and which follows immediately after this Minute.

Now, from the Accounts before given of Faculties and Dispensations then in use, we are naturally led to make the following Observations: viz. That the 25 H. 8. having been repealed by Queen Mary, the Tax-books drawn in pursuance of that Act (if any such there were) fell together with the Statute; but when the Act was revived by Q. Eliz. the Authority of the old Tax-Books was not revived with it, but a Direction only to make new ones. And, considering the great Change that was made in Religion in her Reign from what it was in the 25 H. 8. there was a necessity of putting the Faculty-Office upon a different foot, and consequently of making new Tax-Books; as plainly appears by comparing the old Book now kept in the Office with Grindall's MS. and the Order of Council made in his time. For in the former the number of Heads upon which Faculties were granted were 225, and in the latter but 13. And therefore it cannot be supposed that a Book where 225 several kinds of Faculties were taxed, should be look'd upon as an authentick Standard for granting Faculties, at a time when but 13 only were judged grantable, which were no way distinguished from the other in the old Book.

Vid. Life of
Parker, p.
298, 300.
Grindall, p.
202, 219.

Both Parker, and Grindall, had endeavoured to reform the Abuses complain'd of in the Court of Faculties; and both of them had publickly expressed their Willingness to have this Offensive Court (as one of them calls it) suppressed. But, notwithstanding the diligent Endeavours of these Archbishops, and their Successors, it is very observable, that many illegal Dispensations have all along been granted: as Quadralities and

and *Tot quo^ts*, which the two Archbishops acknowledge ought not to be granted; Dispensations of *Perinde valere*, which are owned before to be intended for making Grants good, which by Law are void, which 'tis certain they cannot do; *Trialities* with Cure of Souls, which have been adjudged void in Law; and particularly in the Case of *Cox*, who was Chaplain to one of these very Archbishops; as may be seen in *Dyer's Reports*, 18 Eliz. and of late Years (as I am informed) *Pluralities* to Persons not qualified by *Academical*, but only by *Faculty Degrees*, contrary to the express Words of Statute. And divers other Instances, I believe, upon a strict Search, might be produced, of *irregular* and *illegal Faculties*, which have passed, and have been taken to be *good and effectual*, only because they were never questioned: All which I take to have been founded upon the *supposed Authority* of the old *Tax-Book*, which never was *confirmed by Parliament*, and never was pleaded upon any occasion, where any doubt was made in Law concerning the *Legality* of a Dispensation; as it would, and ought to have been, had it really been *authentick*; and particularly in the Case of *Cox*, and in the Case of *Colt* and *Glover* before mentioned. For the same reason therefore, and upon the same foot, may *Degrees* have been granted by *Faculty*, and yet, not *legally* granted, tho' no Question till now was started concerning them, because no Occasion was before given to consider them as carrying any *legal Effects*.

It is farther to be observed in this place, that the Power of granting *Faculties* and *Dispensations* has never been duly settled and limited to this day; as appears plainly from the *Archbishop's* doing the same things, sometimes by his *ordinary Power*, and sometimes by his *Faculty Office*; particularly, as to *Dispensations for Non-residence*, *Licences to Marry without Banns*, *Licences to eat Flesh in Lent*, and *Letters Dimissory*; which are four of the thirteen *Dispensations*, to which the great Number in the old *Tax-book* was reduced by the *Reformation*. There are likewise other *Faculties*, not in *Grindall's List*, which belong to the *Archbishop's ordinary Jurisdiction*, and yet are often dispatch'd in his *Faculty-Court*; as, *Licenses to practise Surgery, &c.* From whence I infer, that there never was any regular *Book of Taxations* made according to the *Direction of the Act of Parliament*; otherwise common *Dispensations*, usually granted by the *Archbishop* (and indeed by every other *Bishop*) before the *Act*, would not have been promiscuously mixt with other extraordinary *Faculties*, which the *Act alone* empowered the *Archbishop* to grant.

There is another Paper printed in the *Appendix to Grindall's Life*, from Cleop. F. 2. a MS. in the *Cotton Library*, which gives some farther Light into the Meaning of the Stat. 25 H. 8. with this Title to it, viz. *Arguments to be consider'd, whether a several Commission be expedient for passing Faculties within the Realm of Ireland, and no longer to be granted from the Archbishop of Canterbury.* The Passages I shall take notice of are these:

"I. At such time as the Authority of the *Bishop of Rome* was utterly abolished within Her Majesty's Dominions for granting the said *Faculties*, from whom only within Christendom they passed before that time —

"III. Forasmuch as *Faculties and Dispensations against the Common Law Eccles.* are of their own nature odious, and sparingly to be granted; therefore the Parliament thought it not convenient to have them pass from divers Mens hands.

An. 1576.
Harley - Li-
brary. 33. c. 8.
P. 253.
28 H. 8. c. 19.

There is no Date to this Paper, but it was, very probably, drawn about the 19th Year of Q. Eliz. because, in that Year I find a Commission granted for holding Ecclesiast. Jurisdiction within the Realm of Ireland, pursuant to a Clause in an Act passed in Ireland in H. 8's time, entituled, *An Act of Faculties*; whereby the Persons appointed Commissioners by the Queen (which were two private Gentlemen) were impowered to exercise the same Jurisdiction, and grant the same Faculties, &c. as Archbishops of Canterbury in England did — for such Matters, Causes, and Fees, as in the said Act of Faculties is limited and taxed — to cause all Clergymen to exhibit their Orders and Faculties, by which they held any Benefice or Dignity, and to void all such as were not regularly held; with leave to make Deputies in their absence.

Now it does not appear likely, either from the Nature and Tenour of this Commission, or the Condition of the Persons appointed to exercise it, that the Power of conferring Degrees was contained in it. Nor have any of the Primates of Armagh, who have, ever since the Beginning of K. James's Reign, been entrusted with the like Commission, laid any Claim to such a Power as this; tho' by the *Act of Faculties* passed in Ireland, they had as good a Pretence to it as the Archbishops of Canterbury have by the Statute of Dispensations passed here in England. Nor is there any one Instance to be found of a Degree given by Faculty in Ireland; as I have been well assured from a very good Hand, after a diligent Enquiry made into all Books and Papers relating to the Power of granting Faculties in that Kingdom.

Cott. Libr.
Julius F. X.
16.

In the first Year of King James I. there happened a Dispute, between the Serjeants at Common Law, and the Doctors of Civil Law, about Precedency. The Serjeants alledged, that theirs was a publick Degree of the Commonwealth, and that of the Doctors only a private Degree of the Universities or Schools; that Serjeants receive their Degree immediately from the King, Doctors only by Grants of the Congregation or Convocation in the Universities: &c. To which the Doctors replied, that a Degree taken in the Inns of Court is neither more publick, nor more proper to the Commonwealth, than one taken in the Universities; that Serjeants take their Degree from the Lord Chancellor, authoriz'd by the King, but Doctors from the Universities, authorized thereto by Grants of Letters Patents from the Crown, that Serjeants are only called *sub pede Sigilli*, but Doctors are virtually made by Letters Patent under the Great Seal &c. The Serjeants urged farther, that they were more selected, sparingly chosen, few in Number; but Doctors were infinite, without Limitation: To which the Doctors answered, that they are as much selected, being never admitted till they have kept many Acts, and be presented upon Oath for their Sufficiency, which cutteth off all corrupt Working either by Favour, or Fee, &c.

From all which, and a great deal more that is said on both Sides, it is very plain, that the Lawyers of that Time had no Notion of any other Degrees but what were taken in the Universities, or Inns of Court; and that, if there had been then any Faculty Doctors, they would not have presumed to contest the Point of Precedency with Serjeants: and, should those now in being have any Dispute of this Nature with any other Person whatever, the Heralds would be very much puzzled to know where to place them.

Statutes of Hereford Cathedral, drawn up by *Whitgift*, when *Bishop Strype's Life of Worcester*, by Order of Queen Eliz. and afterwards revised and corrected, with several Additions, by *Archbishop Laud*; every Page of which is signed *W. Cant.* and confirmed by K. Charles I: under his Privy Seal, in the 12th Year of his Reign.

Cap. 1. *Qualitates in futuris Præbend. & Canonicis.*

" Nullum posthac Præbendarium sine Canonicum — Sinimus, — pri. Stat. Eccles.
" usquam Gradu aliquo Academico in Theolog. vel saltem Magisterii in Heref.
" Artibus, aut Baccalaureatus in Legibus, insigniatur, eundemque
" Scholasticis exercitiis (prout alterius Academia Statuta postulant,)
" præstitis, consecutus fuerit.) —

Cap. 9. *De Praelectione Sacra.*

" Quemlibet ex Canonicis aut Præbendariis huic muneri judicamus
" imparem, nisi — sit vel in Theolog. Graduatus, vel ad minimum Arti-
" um Magister, aut in Legibus Baccal. Justis & temporum spatiis, &
" exercitiis, in alterâ nostrâ Academiâ exantatis creatus. —

These Statutes, which are the same for Substance in the Old Draught of Q. Eliz.'s Time, and in the new, are a plain Proof both of *Whitgift's* and *Laud's* Opinion, that no other Degrees but such as were taken regularly, and according to due Form in the Universities, were proper Qualifications for such as were admitted *Canons in any Cathedral*. From whence we may also fairly conclude, that this was the general Opinion of those Times: And consequently that, the two Charters of Manchester-College, the one in Q. Eliz.'s, and the other in K. Charles's Reign, bearing very near the same Date with the old and new Statutes of Hereford, the Degrees there required must be understood to be University-Degrees, tho' it be not so particularly expresed: Especially when it is consider'd, that a higher Degree of Learning is made necessary to qualify a Man to be *Warden of Manchester*, than what is required for a *Canon of Hereford*, or of any other Church.

Besides, the Difference of Degrees required in these Charters for the *Warden*, the *Fellows*, and the *Chaplains*, agreeable to the different Dignity of their Places; and the different Professions or Kinds of Learning in which those Degrees were to be taken, is a certain Argument that University-Degrees were intended; because there is no certain Age, or Time of Study; no particular Exercises or Performances in any Sort of Learning; no certain Degrees or Proofs of Proficiency in any Profession; and in short no manner of Gradation at all requisite for the Attainment of a Faculty for any Degree whatever.

ARTICLES of ENQUIRY at the Visitations of Arch-
bishops, Bishops, Archdeacons, &c.

Visitation of Chichester Diocese by Authority of *Archbishop Whitgift*, Sede vacante. " Of what Age and Degree of School is He? [your Minister?] Append. p. 106.

Archbishop Bancroft in his Metrop. Visitation An. 1606.

" Whether doth your Minister wear the Surplice whilst he is saying the publike Prayers and ministering the Sacraments? And, if he be any Graduat, whether then doth he also weare upon his Surplice, during the times aforesaide, such a whood as by the orders of his University is agreeable to his Degree?

L

Tho.

Tho. Bilson Bishop of Winchester Anno 1606.

“ Whether the Parson, Vicar, or Minister — saying the publick
“ Prayers, or ministring the Sacraments — hath neglected to wear a
“ Surplice? And whether such of them as are Graduates have omitted to
“ wear upon their Surplices, at such times, such Hoods as by the Orders
“ of the Universities are agreeable to their Degrees?

Henry Cotton Bishop of Salisbury Anno 1614.

“ — And he be a Graduate, (your Minister) whether then doth he
“ wear upon his Surplice — such a Hood as by the Orders of his Uni-
“ versity is agreeable to his Degree?

The same Enquiry by *W. Bishop of Landaff Anno 1640.*

Archdeacon of Norfolk 1625.

“ Doth your Minister, in time of Divine Service — wear a Surplice?
“ And, if he be a Graduate, a Hood suitable to his Degree in the Uni-
“ versity.

“ — suitable to his Degree, *B. Dupper Bishop of Winchester*
Anno 1638.

Commissary of Essex and Hertford An. 16 — printed An. 1625.

Same Enquiry as before *Anno 1614.* with this Addition — according
“ to the 58th Canon

S. Harsnet Bishop of Norwich Anno 1627.

“ Whether is your Minister, Parson, Vicar, or Curate, a Graduate in
“ either of the Universities, or no? if yea, then of what Degree?

“ What Physician, or Chirurgeon is in your Parish unlicensed, and, be-
“ ing not a Doctor of Physick, in either of the Universities, doth practise
“ Physick?

“ — not being a Doctor of Physick, or otherwise sufficiently licen-
“ sed in either of these Universities”. *M. Wren Bishop of Norwich,*
Anno 1636. and when *Bishop of Ely*, *Anno 1662.*

R. Mountague Bishop of Chichester Anno 1628.

“ Whether is your Minister a Preacher or not? of what Degree is he
“ in the University?

The same Enquiry by the same Bishop, *Anno 1637.*

J. Williams Bishop of Lincoln, 1630.

“ Whether are there in your Parish any, not known Doctors of that
“ Profession, that practise Physick?

R. Neil Archbishop of York Metrop. Vis. Anno. 1633.

“ Whether doth your Minister wear a Surplice? and, being a Graduate,
“ doth he always wear therewith a Hood by the Order of the University
“ agreeable to his Degree?

The same Enquiry by *Archdeacon of York Anno 16 —*

By *Archdeacon of Surry Anno 1638.*

By *G. Ironside Bishop of Bristol Anno 1662.*

By *William Goulston Bishop of Bristol Anno 168 —*

William Laud Archbishop of Canterbury, Metrop. Vis. An. 163 —

“ Are your Ecclesiastical Judges, and their Substitutes, Masters of Art,
“ or Batchelors of the Laws at least.

The same Enquiry by *J. Williams Bishop of Lincoln An. 1641.*

Matthew Wren Bishop of Norwich, Anno 1636.

“ Is your Minister, Parson, Vicar, or Curate, a Graduate in either of
“ the Universities? And, if he be a Graduate, of what Degree is he?
“ And what kind of Hood doth he use to wear in the Church?

The same Enquiry by Dr. Pearson *Archdeacon of Suffolk* Anno 1638.

W. Juxon Bishop of London Anno 1640.

"Do the Chancell. Commiss. &c. - or any of them Substitute any in their absence to keep Court for them that is not, either a grave Minister, and a Graduate, or a Bachelor of Law, or Master of Arts at the least.

William Bishop of Landaff Anno 1640.

"Hath your Minister, without License from the Court of Faculties, or from the Archbishop, or - solemnized Marriage?

Degrees by Faculty might as properly have been mentioned in Articles of Visitation, as Marriage Licenses, if they had been of the same Authority.

Hen. King Bishop of Chichester Anno 1662.

"Doth your Minister wear the Surplice, together with such other Scholastical Habit as is suitable to his Degree?

The same Enquiry by *B. Laney Bishop of Peterborough* Anno 1662.

And when *Bishop of Lincoln* Anno 1663.

By *G. Morley Bishop of Winchester* Anno 1662.

By *R. Saunderson Bishop of Lincoln* Anno 1662.

By *W. Fuller Bishop of Lincoln* Anno 1671.

And by *M. Honeywood Dean of Lincoln* Anno 1672.

Matthew Wren Bishop of Ely Anno 1662.

"Is your Minister, Parson, Vicar, or Curate reputed to be a Graduate in either of the Universities? And, if he be a Graduate, then of what Degree is he?

"Doth he preach with his Surplice, and Hood also, if he be a Graduate?

"Hath any, being no Priest, or Deacon, presumed at any time under Pretence of being Graduate, or a Scholar of the University to read Common Prayer in the Church?

W. Juxon Archbishop of Canterbury Anno 1663.

"Doth your Parson, Vicar, or Curate - wear a Surplice, with a Hood (if he be a Graduate) agreeable to his Degree in the University?

P. Gunning Bishop of Ely Anno 1682.

"Doth your Minister - at the reading or celebrating any Divine Office, Can. 58. constantly wear the Surplice, and other Scholastical Habit according to his Degree, if he be a Graduate; and without a Hood, (only instead thereof a Tippet of black Stuff, not Silk, being permitted him) if he be no Graduate.

N. Stratford Bishop of Chester upon visiting his Cathedral An. 1692. Reg. Cert.

Art. 8. "Is every one of the Prebendaries at least a Master of Arts, or Bachelor of Law according to the tenth Statute?

Answer in writing. "Each Prebendary is reputed to be a Master of Arts at the least, and we presume that each will upon demand give Evidence of his University-Degrees.

Upon a view of these Articles relating to Degrees, publish'd by a great number of Bishops, Archbishops, and other Ordinaries, at several times during the space of a hundred Years, it cannot but appear very strange, that, if Degrees by Faculty had been commonly granted, and had been always look'd upon as good in Law, no mention should be made of them in

in any Article of Enquiry upon this Subject: And that no Care should be taken all this time that the Archbishops Graduates should be provided with proper Habits, so as not to be liable to Suspension (as they now plainly are by Can. 58) for wearing such Habits as are suitable to the Degrees bestow'd upon them by Faculty, because they are not agreeable to any Degrees which they have taken in the University.

But what account can be given of *Archbishop Juxon's* making this Enquiry in his Visitation *Anno 1663*, viz. Whether every Minister wore a *Hood* upon his *Surplice* (if he were a *Graduate*) agreeable to his *Degree in the University*? 'Tis certain that he gave his Chaplain Mr. *Brabourn*, a *Faculty for the Degree of Doctor in Divinity*; and yet (had *Brabourn* been a Minister in his Diocese when he visited, and had worn a *Doctor's Hood*) he might have been *presented*, and *suspended*, for not wearing his *Master of Arts Hood*, which was the highest *Degree* he had taken *in the University*. The least that I can conclude from hence is, that *Faculty-Degrees* are mere *Titles of Honour*; and, as they are conferred without *Investiture*, so they give no Right to any *Habit* at all.

HONORARY DEGREES *given by* the University.

Reg. Univ. I. Sir John Mason, Chancellor of the University, had a Dispensation
Wood's An- from the Congregation of Regents to wear the Habit of a Doctor, tho'
tig. p. 224. he was only Master of Arts.

John Feckenham, Bachelor of Divinity, (who was then either Dean of St. Paul's, or Abbot of Westminster) had the Degree of Doctor of Divinity conferred upon him when absent — with leave for three Doctors of Divinity, named by the University, to carry him the Ensigns or Badges of his Doctorship.

P. 715. A.D.
1558. 5 & 6.
Mar. *T. Boxall*, Batchelor of Divinity, Secretary of State to Queen Mary;
Dean of Windsor, &c. was, tho' absent, created Doctor of Divinity;
The Ensigns of his Degree being delivered to him by the Abbot of West-
minster, and two Doctors in Divinity, who were likewise employed to
give him the Oath for observing the Privileges of the University: Which
Favour he acknowledged in a very kind Letter of Thanks to the Vice-
Chancellor and Masters.

Reg. Univ. I.
An. 1561. *W. Alley, Bishop of Exeter*, supplicated for the Degree of *Bachelor of Divinity*, which being given him, he afterwards desired to be admitted to his *Doctor's Degree*; which was likewise granted him, provided he preached once in the University before he took that Degree upon him. Then a Dispensation passed for all Exercises required for both Degrees, one reason of which assigned was, *quia non receptum est ut Episcopus conditionibus vulgaribus subjiciatur*. And this was granted upon Condition he took the Oath to observe the Statutes and Privileges of the University, and paid the Fees due to the Officers.

Ibid. An. 1562. *W. Dunham, M. A. Bishop of Chester, had both Degrees in Divinity given him in the same manner, only the latter was granted upon this Condition, viz. modo incipiat proximis Comitiis.*

Grindal Bishop of London, and Scambler Bishop of Peterborough, went out Doctors of Divinity per Gratiam at Cambridge.

Bishop Grindal in his Supplication for his Degree set forth, that he had studied twelve Years after his Degree of Bachelor, and had
preached

preached two Sermons, one ad Clerum, and the other at St. Paul's Crofs, within a Year after his Admission, and praying that it might suffice for him to be an Incepitor in Sacred Theology —

The Instrument whereby he was admitted is enter'd in the Bishops Registry: and his Admission is thus enter'd in the University Register; (viz.) *Rev. in Christo Pater Edmondus London Episcopus, admissus S.T.D. in palatio suo London, per Doct. Coverdale Apr. 25. An. 1564. à Dominio Pro-Cancellario substitutum. Item concionatus est ad Clerum 4 Julii die Comitiorum per mag. Johan. Young Capellum suum.*

The same Year Tho. Young, *Archbishop of York*, was created *Doctor of Laws* at Oxford, by Commission from that University — He having supplicated the Congregation under this Form — *Quatenus studium viginti annorum in jure civili posuerit.*

Jewel, Bishop of Salisbury, and Cheney, Bishop of Gloucester, created Doctors of Divinity by the like Commission.

The Bishops of *Norwich, Chester, Litchfield and Coventry, St. David, and Carlisle*, were created *Doctors* in the same manner at *London*, in the Presence of *W. Standish, Publick Notary, and Register of the University, and several others.*

H. Cotton, Bishop of Salisbury, was created Doctor of Divinity at Sa- lisbury, by the Vice-Chancellor, King's Professor of Divinity, both the Proctors, with the superior Beadle attending them by Virtue of a Commission.

H. Rowlands, Bishop of Bangor, and J. Bridgett, Bishop of Oxon, were created Doctors of Divinity at a time, when several Noblemen and Gentlemen had Degrees conferred upon them, the King being then at Oxford.

Sir John Dodderidge, Justice of the King's-Bench, was created Ma- ster of Arts in his Chambers at Serjeants-Inn, in the Presence of the Vice Chancellor, the two Proctors, and five other Members of the University — propter operam Academicae in causis ejusdem agendis & defendendis natam. v. Wood's Antiq. p. 433.

R. Skinner, Chaplain in Ordinary to his Majesty, and Bishop elect of Bristol, was created Doctor of Divinity, by Diploma under the Seal of the University.

Sir J. Banks, Lord Chief Justice of the Common Pleas, (who, being Attorney General in the Year 1636, very probably drew up the Charter of Manchester College) was, together with several other Judges, created Doctor of Laws.

H. Carpenter, Chaplain to the House of Commons, was declared Doctor of Divinity by Diploma, upon the earnest request of the Speaker, Sir Edward Turner, to the Chancellor of the University.

These Instances (being a very few out of a great number) of Persons who had Degrees conferred upon them out of regard to their eminent Merit, or Station, or upon Application made by the King, the Chancellor, or other Great Men, are produced to shew, that Honorary Degrees, and such as are called by Grace, when given by the University, have been ever since the 25 H. 8. till after the Restoration, esteemed so highly, as to leave no room to suppose, that the like Honours could be conferred any other way.

And, since that time, when Faculties for Degrees have been frequently granted, the present *Bishop of London*, and the present *Bishop of Salisbury*, (when *Bishop of Oxford*) had the Degree of Doctor of Divinity conferred

conferred upon them by *Diploma* under the Seal of the University of Oxford, without any mention, either in the Chancellor's Letters, or in the University Instruments, of their being Doctors by the *Archbishop's Faculty*, tho' they had been so styled, and entitled, some time before.

There is another Way of conferring Degrees in the University, and that is by *Incorporation*; which, in the very Nature of it, excludes all Degrees granted by *Faculty*, as will plainly appear by what follows.

Wood's Ant.
p. 193. An.
1576.

Controversia oriebatur (in Convoc.) de Incorporatione Cantabrigiensium, corundemque in sinum Univ. receptione, ita ut eodem apud nos sine loco & numero quo apud suos (i.e.) Cantabrigienses fuerunt. It was carried that they should.

Deinde mota est Controversia de his qui in aliis Academiis promoti, an, obtentā apud nos Incorporatione, eisdem censeri debeant Loco & Statu quibus in aliis Univ. gaudebant. Placuit Convocationi favorabiliter decernere — “Ut quilibet natus Incorporationis Beneficium eisdem habeatur Loco & Statu quibus in aliquā forinsecā Univ. gaudebat.

And by the present *Statutes of the University of Oxford*, drawn up by the Appointment of *Archbishop Laud*, and revised by him, and confirmed by *Charles I. Anno 1636*. The Matter stands thus:

“Statutum est quod quilibet, Incorporationis Beneficium natus, eodem habeatur Loco & Statu quibus in aliquā aliā Universitate gaudebat.

Every Person incorporated, before his Admission, has this Oath administered to him by the Vice-Chancellor, (viz)

“Tu dabis fidem ad observandum Statuta, Privilegia, Consuetudines ac Libertates istius Univ. quatenus Statut. Privileg. Consuetud. & Libertat. Universit. (A.B.C.) non repugnant.

Afterwards he is admitted by the Vice-Chancellor under this Form;

“Ego admitto te ad eundem Statum, Gradum & Dignitatem hic apud Oxonienses quibus ornatus es apud Tuos (A.B.C.)

The like Form of Admission is, as I am told, used at Cambridge.

Which way then can a Person who has taken a Degree in *no University* be incorporated into ours? If there are any Instances of such Incorporations; (and some few I believe there are) they are manifestly *irregular* and *improper*; and they must be supposed to amount to *Creations*, in order to convey any real Effects.

The STATUTES of the College of Physicians.

Cap. 11.

De Candidatis.

Volumus, ut nemo admittatur in illorum Ordinem, qui non sit in Medicinā Doctor & natione Britannus, & Medicinam exercuerit per Quadriennium.

Quod si Doctoratus gradum in exterā aliquā Academiā adeptus fuerit, volumus ut antequam admittatur ad examen, Diploma sive Litteras testimoniales veras & Authenticas illius Academie proferat & ostendat Collegio, & præterea ab alterutrā nostrarum Academiarum Incorporationis sue Testimonium habeat & adducat.

A short

A short ACCOUNT of the Institution and Nature of the College of Physicians, published 1688.

"Candidates must be *Doctors in Physick*, admitted to that Degree in *p. 8.*
"one of our own Universities, must not be Foreigners —

"Honorary Fellows are such Doctors in Physick, as by reason of their
"being Foreigners, or having taken their Degree in *some University beyond the Seas*, are not incorporated into either of ours; or for some
"other Reason (having not been Candidates) are not of the number
"of those, who have Votes in the Affairs of the College.

"Licentiates are such other Persons skilled in Physick, who by reason
"of their being Foreigners, or their not being admitted Doctors in *one of our Universities* — or such like Causes, are not capable to be elected
into the number of the Candidates.

The Publisher of these Statutes, and the short Account together in 1693, makes great Complaints of the frequent Admission of Persons into the College, contrary to the Institution and Nature of that Society (*viz.*) such as had *no Degree* at all, or had taken *Degrees in some Foreign University* only, where the Statutes required they should be admitted, or at least *incorporated* in one of our *own Universities*. But there was then no Complaint, because no Apprehension, of any Persons pretending to be qualified for *Candidates* by the *Archbishop's Degree*.

And, as 'tis manifest from the foregoing Account, that a Person is not qualified by the *Archbishop's Degree* to be admitted into the College of *Physicians*; so is it plain from 14 Hen. VIII. before cited, that *no Degree in Physick conferred by the Archbishop* does of it self qualify the Person upon whom it is conferred to practise *Physick any where in England*; and, if such Degree does not give a Physician *Liberty* to practise, it can give him *no other Privilege* but that of styling himself what the *Archbishop's Instrument* styles him. Since therefore *Degrees in Physick* are granted by *Faculty*, when 'tis known that they can be no more than *Honorary, or Titular*; This seems a very strong Proof, that *all other Degrees*, which pass the same way, are to be, and are, so esteemed also.

What Orders or Constitutions have been made with regard to the Qualifications of Persons admitted into *Doctors-Commons*, I cannot tell: But Custom has so far prevailed to have none other but *Doctors of Civil Law in one of our own Universities* admitted into the number of *Advocates* in that Society, that, tho' all of them come in by the Favour of the *Archbishop*, and are in a peculiar manner dependent upon him, yet when a Person had a Title given him to be of their Number by a *Faculty* for a *Doctors Degree* from *Archbishop Sancroft*, 'tis very well known how that Matter was resented, tho' he had also before taken the same Degree in a *Foreign University*. But this is a Matter so fresh in Memory, that I shall make no particular Observations upon it.

From what hath been hitherto said upon this Subject, it seems pretty evident to me, that there is nothing at all to be met with in any of our

our *Laws, Canons, or Histories*, or indeed in any *MS. or printed Book* whatever, (before *Bishop Gibson* publish'd his *Codex*) that proves, favours, or so much as barely mentions, the *Archbishop's Power of conferring Degrees*.

I shall now shew from the *Form of the Faculty* it self, that the founding this Power upon *25. Hen. VIII. Cap. 21.* seems to be ill warranted.

For in the first place, (not to mention a very extraordinary *Preamble*, where the *Custom of giving Degrees in Schools* is alledged as a *Pretence* for giving Degrees *out of Schools*, that is, without any regard had to *Standing or Exercise*) when it is said — *Antecessorum nostrorum exempla imitati*, it is obvious to remark, that this part of the *Form* must have been contrived long after the said *Act* was made; because the two first *Archbishops* that lived after the *Act*, had this been the *sole ground* of their Power, could not with any *Propriety of Speech* have used this Expression in their *Faculties*. And, should any such *Faculty* for a *Degree* be found during all the time that *Cranmer* and *Parker* continued in the See of *Canterbury*, we must conclude, that the Power, by which it was granted, was built upon some other Foundation than this *Act*. (I take no notice of *Cardinal Poole*, who came between them, because all the while he was *Archbishop* the *Act* stood repealed.) Neither can I see of what Service it could be to any of the succeeding *Archbishops* to cite the *Example of their Predecessors* in their *Faculties*, when the *Practice* of former *Archbishops* in this Case can be no *Proof*, or *Corroboration*, of their Power who claim under *an Act of Parliament*. Nor can any tolerable Reason be given why they should use this Expression in their *Faculties for Degrees*, which is not to be found in any *other Faculties or Dispensations* granted by any *Archbishop by Virtue of the same Act*.

The next thing I shall observe in the present *Form* of the *Archbishop's Faculty* is, that, after it is said that the *Archbishops of Canterbury, (publicâ Legum Authoritate muniti)* do enjoy, and have long enjoyed this Power of conferring Degrees; to make good what is affirmed in this Parenthesis, it is added in another (*prout ex Libro Authentico de Taxationis Facultatibus Parlamenti autoritate confirmato pleniūs appetet*.) But, if the Power here claim'd were certainly derived from *25 Hen. VIII.* what need would there be of inserting this Clause to prove it; which (as was just before observed with relation to another Clause) was never made use of by the *Archbishop* in any *other Faculty* that this Statute empowers him to grant? The best account that can be given of this is, that it was added some time after the *Act*, when the *Right* of giving Degrees was *questioned*, or at least thought *disputable*: But it does not seem to be properly inserted at all; for, had *25 H. VIII.* been here particularly meant, it should rather have been expressed thus (*viz.*) *prout ex Statuto 25 Hen. VIII. & Libro Taxationis per dictum Statutum confirmato pleniūs appetet*. However, not to insist upon this, it may be farther enquired, why the Words *pleniūs appetet* should be referred to a *Tax Book*, which is said to be *authentick*, and *confirmed by the Authority of Parliament*? When the Book now extant, and manifestly intended in the *Faculty*, carries no appearance of such Authority with it, as I have shewn before at large? And why all this reasoning and arguing in an *Instrument*, when the *Authority* upon which it is granted ought to be *plain and positive*, according to the usual Style of all *legal Grants* whatever? Another thing very fit to be observed upon this Subject is, that (as far as we can judge by the Entry in *1544.*) the present *Form* is entirely

ly of a different Cast from that which was then used. For, besides that this is drawn up in the Style of a *Creation*, and not a *Dispensation*, as the other was, that whole Clause concerning *Privileges, Preeminences, and Prerogatives*, which is found in the old Form, is left out in all the later ones: From whence it may be fairly concluded, that those Archbishops, who have since the Reformation bestowed Degrees by Faculty, intended to give only *Titles of Honour*, and not *Qualifications for Preferment*; for *capacitating a Man for a Benefice*, is a *special Favour*, and such as (if it could be granted by the Archbishop) is not to be *understood*, unless it be *expressed* (as it always was in every Instrument granted to such purpose, by the Pope, or those *commissioned by him*) and therefore, when all Expressions tending to qualify, or *capacitate a Man for any Benefice, or Office*, were left out in the Protestant Faculties, it could be done for no other Reason but to prevent any Umbrage that might be taken by the Universities upon that account, as if the Archbishop's *Graduates*, were entitled to the same Rank, and to all the same Privileges, as *University Graduates* are.

From these Remarks upon the Form in which the Archbishop's Faculty for Degrees is drawn, I am naturally led to make this General Observation; (*viz.*) that the great Liberty which hath been taken by Archbishops in changing the Form shews, that the Foundation of their Power is weak and uncertain; and that therefore old Clauses have been left out, and new ones sometimes added in their Instruments, to support it. The justness of which Conclusion is evidently confirmed by the superaddition made by the present Archbishop in Mr. Peplo's Faculty; (*viz.*) *Cumque provisum sit per ejusdem Collegii Statuta—ut Guardianus sit ad minus gradu Baccalaureatis in Sacra Theologia vel Jurium insignitus—* For the Archbishop's Degrees were, till very lately, looked upon as only *Honorary Titles*, and not *legal Qualifications*; but an opportunity now offering to raise the value of them, a new Clause was put in, in order to give them a *legal Effect*. And, if the Dispute which hath happened thereupon doth not prevent it, this Clause will in all probability be constantly inserted; upon the like Occasions for the future, and so will come in time to be accounted as necessary a part of the Form as any of the other now used; some of which must be allow'd to have a much later Original than that Act of Parliament which is the supposed Foundation of the whole.

There is one Observation more which I think proper to be added in this place, *viz.* That as the Archbishops have varied their *Forms*, and built their *Power of giving Degrees* upon different Foundations; so have they been always shy of claiming such a Power in any publick manner, or of exercising it where there might be the least likelihood of a *Dispute*.

Now, if we suppose the *Custom of giving Degrees by Faculty* to have constantly obtained ever since 25 Hen. VIII. this Observation will hold of all the Archbishops before the Restoration; because no notice at all is taken of the Archbishops Degrees in any *Canons, Articles of Visitation, Injunctions to the Clergy, Orders about the increase of Learning, and Preferment of learned Men, Letters requiring an Account of the Character, Degree, and Condition of Preachers, &c.* in all which there was frequent occasion to mention Degrees. Nor has that diligent Writer of the *Lives of Archbishops*, Mr. Strype, found any thing among theirs

Papers that gave him the least intimation of their ~~intention~~ to confer a Degree.

But ever since the Restoration, whence it is known, that every Archbishop has given Degrees by Faculty, not one of them hath taken the least notice of his Right so to do any other way than by his Instruments.

Juxon had a fair occasion offered him to drop something in Favour of his Faculties in his *Articles of Visitation*; but in his enquiry concerning Degrees, he hath regard only to those taken in the University.

Sheldon, in his Letter to the Archbishop of Canterbury in Ireland, gives an Account of all the Privileges and Rerogatives belonging to the See of Canterbury; but says nothing of his Power of conferring Degrees, which that Archbishop would have been pleased to know as well as the other, since it was in his Grant to enjoy all that the See of Canterbury ever did.

When Sancroft, about half a Year after King James came to the Crown, perceived what Measures were taking, he never ventured to give a Degree during the rest of that Reign; and, had a Degree conferred by his Faculty before, been pleaded, as a Qualification for the Wardenship of Manchester at that time, I don't doubt but the Archbishop would have disclaim'd it, and a Bishop of Chester would certainly have been justify'd in Law for not admitting it. In which Opinion I am very much confirmed by what past the latter end of that Reign, with relation to Mr. Lowth, who (as I have been credibly informed) applied to Sancroft for a Doctor's Degree in order to qualify him for the Deanship of Rochester, but was refused. Whether the Fact were exactly so or not, I cannot be positive; but what the Archbishop thought of this matter, will plainly appear from the following Letter to Dr. Cawell Vice-Chancellor of Cambridge, the Original of which I have by me.

Mr. Vice-Chancellor, as you desire to have a Letter to the Mr. Simon Lowth Master of Arts in Clare Hall, of 28 Years Standing, is appointed by his Majesty, Dean of the Cathedral Church of Rochester, but the Statutes of the said Church, require him to be either Doctor of Divinity, Bachelor of Divinity, or a Doctor of Laws; wherefore I desire you (it being also the Desire of his Diocesan) that you would grant to him the Degree of Doctor of Laws, that he may be qualified to enjoy this his Majesty's Favour, and you will hereby oblige.

Nov. 17. 1688. Your affectionate Friend Lambeth-House.

Had the Archbishop been truly persuaded that his Degree was a legal Qualification, he would readily have granted it to Mr. Lowth, for whom he had a particular Friendship. And it would have been a singular Kindness to him at that Juncture; because, by the delay of taking it at Cambridge (where he went out Doctor of Divinity, Jan. 18.) he lost the Deanship intended him. But there was no such Doctrine stirring at that time.

The late Archbishop Tennison, upon great importunity, (which he often complained of) gave many Degrees by Faculty; but, when he was pressed in some Instances to grant them, where they might be made use of as Qualifications, he utterly refused; because (as he said upon this Occasion)

it would make a Noise. Nay, I am well assured that, upon a certain Occasion, where he was asked to give a Degree, and was very well disposed towards the Person for whom that Favour was desired, he was pleased, after some time of Consideration, to express himself to this effect, viz. "That the more he thought of it, the more he was confirmed in his Opinion of the Invalidity of his Degree as to its being any Qualification; that, if it were made use of in that case, it would be disputed by the University, and might come to be questioned at Common Law, and decided against as an insignificant thing, and so be made contemptible for the future; which was a Consequence that he would avoid."

All that now remains for completing the Argument concerning Degrees granted by the Archbishop is, to consider two Cases, in which it is lately pretended that the Archbishops Degrees have been admitted as legal Qualifications; (viz.) where certain Degrees are required for holding Dignities in Cathedrals, by Local Statutes; and for exercising Ecclesiastical Jurisdiction, by the Canons of the Church.

As to the first Case, I know of no Cathedrals, where Persons are supposed to hold their Dignities by virtue of the Archbishop's Degrees, but such as were erected by Hen. VIII. and it is generally acknowledged that none of the Statutes given to these Churches are in force. But, however that be, this is certain, that in most, if not every one, of them, several have enjoyed their Dignities without having those Degrees, which the Statutes of their Church required they should have, either from the University, or by Faculty: And therefore, if a Man may be a Dean, or a Prebendary of one of these Churches, where the Statutes say, he ought to be a Bachelor of Divinity at the least, when he is only a Master of Arts, (as many such there have been, and as several there now are) it makes nothing at all for the Archbishop's Degrees, that some of these Dignitaries have been created Doctors, or Bachelors of Divinity by Faculty, when, by all that yet appears, they had been as well qualified to hold their Preferments without these Titles, as they are with them.

It may be observed farther upon this Head; that no Faculty was ever granted to any of these Dignitaries with any Clause inserted in it to render it a Qualification; that most, if not all the Archbishop's Graduates, who have been preferred in these Churches, had their Degrees given them some time before they were preferred, and without any design of qualifying them thereby for such Preferment; and that the Persons by whom they were admitted into their Dignities seldom knew, or considered, how they came by their Degrees; and, if they did, they might think they had no reason to take notice of it, nor any concern to refuse them, as not looking upon any Degrees to be necessary to their Admission, however the Persons admitted might be liable to the Censures of their Visitors afterwards for not complying with the Statutes of their Founder.

But in the present Dispute about Manchester College, I take the Matter in question to be of a very different Nature. For the Warden of the College is required to be a Bachelor of Divinity at least, not by any Statute subsequent to the Foundation, but by the Charter of Foundation itself, and by the first incorporating Clause in it, which constitutes

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the Body, in such a manner, that neither *the Warden*, nor *Fellows*, can have any Title to their Places, unless they have the Degrees there specified before they are admitted: And there is no manner of doubt concerning the *Validity* of this Charter. Then the Person nominated to be Warden tenders *the Bishop* (by whom the Charter directs that he should be *instituted*) a Faculty from *the Archbishop* for the Degree of Bachelor of Divinity, together with his *Majesty's Patent* for the Wardenship: And this Faculty is granted with an express design to qualify him for this Preferment; (as the Words here added to the old Form plainly import) so that the Bishop could not help taking notice of this Faculty; and he could not institute upon it, without allowing a Degree given by *the Archbishop* to be of the same Force and *Validity* with the like Degree taken in *the University*; and without owning that the former comes as truly within the meaning of the Charter as the latter; neither of which he could possibly grant without being false to his own Judgment, as well as to the *Privileges of the University*, which he hath sworn to maintain.

To the other Case which concerns *Ecclesiastical Officers*, who are required by a *Canon* made *Anno 1603.* to be at least *Masters of Art*, or *Bachelors of Law*, several Answers may be given, all of them, I think, sufficient to shew, that Degrees conferred upon such Persons by the *Archbishop* are no legal Qualifications.

In the first place then I say 'tis very plain from *other Canons* made at the same Time, where Degrees are mentioned, that *University Degrees* are either expressly named, or evidently meant; and therefore it must be supposed that *University Degrees* are intended here also, tho' not particularly expressed.

It does likewise appear from *Canons* established by former *Convocations*, (from whence these are mostly transcribed) from a *Statute* made 37 *Hen. VIII.* and from *Bills* depending in *Parliament* in the Reigns of *Edw. VI.* and *Queen Eliz.* (all of them before-cited) that it was the constant Meaning and Design both of *Parliament*, and *Convocation*, that the Persons chiefly concerned in the *Administration of Ecclesiastical Laws* should be *Graduates in the University*: In Conformity to which the *Canons of 1603* ought to be interpreted.

If the *Decree of the Synod* convened under *Archbishop Chickley An. 1430*, which is mentioned in *A. B. Parker's Antiquities*, (*v. supra p. 14.*) be allowed to be a regular *Act*, (as there is good Reason to affirm it is) then is it certainly unlawful for any Person, at this time, to exercise Ecclesiastical Jurisdiction, unless he hath taken some Degree, either at *Oxford* or *Cambridge*; because by 25 *Hen. VIII. Cap. 19.* All *Canons, Constitutions, and Ordinances of Provincial Synods*, made before this *Act*, and not repugnant to the *Laws of the Realm*, or the King's *Prerogative*, are confirmed by this *Act*. But, whether any *Canons*, made since this *Act*, and not confirmed by any other, will be allowed to affect *Property*, so as to take away any *Right, Title, or Interest*, which a Man was duly qualified by the *Laws of the Realm* to enjoy before such *Canons* were made, I will not pretend to determine.

This however I am sure of, that, if the want of such a *Degree* in an *Ecclesiastical Officer* as the *Canons* require, be not any legal Ground to void

void his Patent, then an *Archbishop's Degree* can never be reckoned a Qualification for holding an Office, where the Possession might be as well secured without any *Degree* at all. But, should the Patent be adjudged void at Common Law upon this Account, It would, I am confident, be at the same time adjudged, that the Degrees mentioned in the Canon must be understood to be *University Degrees*, there being no other legal Notion of Degrees when those Canons were made, and no Instance I believe to be produc'd since, till after the Restoration, (I may say till after the Revolution) of any Ecclesiastical Officer, who was not a Graduate of some University, if he had any *Degree* at all.

There is another general Answer that may be given to all the Instances that can be brought under both the forementioned Heads, which is this; that no *Judgment* having yet been given in favour of the *Archbishop's Degrees*, no express *Allowance* of them upon any Dispute, nor indeed any *Dispute* raised about them, these may have been true Blots, though never yet hit; as some Persons have enjoyed, and some Persons may at present enjoy *Pluralities*, without any other Qualification than the *Archbishop's Degree*, tho' the Statute 21 Hen. VIII. directly, and in plain Terms, says, that no other Degree shall qualify for a Dispensation in that Case, but what is taken in the *University*, and without Grace. Which Statute hath been very strictly and worthily observed by the present *Archbishop*.

To conclude this Argument; whatever the *Ground*, or the *Antiquity*, of the *Archbishop's Claim* to a Power of conferring Degrees may be, no pretence to qualify Persons for any Preferment by such Degrees was ever, that I can hear of, set up before the *Revolution*; at which time there was hardly a *Lawyer* in the Kingdom, and but very few of the *Clergy* that had ever heard of this extraordinary Prerogative of the *Archbishop*. And tho' Degrees have been distributed since very frequently, little Notice hath been taken of them, and little Regard hath been shewn to them by any others, but what were concerned in the bestowing, or receiving them. Of those few, who have made any Enquiries about them, some have been of Opinion, that it was part of the ancient Ceremony at the *Installation of an Archbishop*, for his Grace at that time to create a *Doctor* or *Master* in each Faculty: Others, taking the *Archbishop* to have some *Papal*, or *Legantine* Prerogatives still belonging to him, have supposed, that he had a Power of giving Degrees to his *Domesticks* and *Dependents*, such as are, in the Canon Law, styled *Familiares*. But a general unlimited Power, derived from *Act of Parliament*, to confer Degrees of all kinds, at all times, to any Person whatever, was never heard or thought of, even by those who attended upon *Archbishops* in their Families, before *Bishop Gibson* published his *Codex*: and, if the Plea will hold in the manner there urged, then may the *Archbishop* make *Sergeants* and *Barristers* as well as *Doctors* and *Masters*: For those are called *Degrees in Learning* in many *Acts of Parliament* as well as the other; And the *Creatio aliorum Graduorum in quacunque Facultate* mentioned in the *Tax Book*, is equally applicable to all manner of Degrees besides *Doctors*, whether they are taken in the *Inns of Court*, or in the *Schools*.

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And then, by adding *Exempla Antecessorum* to the Authority of Parliament, he may make Knights also, as *Archbishop Lanfrank* did, and other Archbishops, both before, and after him, probably might; and as the Pope hath long used and accustomed to do.

Burnet Hist.
Ref. part. 2.
App. p. 272.

Part. 2. B. 2.
P. 292.

And, that this is no extravagant Supposition, will appear from the Bull which constitutes *Cardinal Beaton Legate à Latere in Scotland*, An. 1543. whereby he is empowered to make Knights, Counts Palatine, and Poets Laureat, as well as Doctors, and other Graduates. And there is no doubt (says Bishop Burnet) but *Cardinal Pool's Bull* was in the same Form, it being very reasonable to suppose, that the same Powers were granted to every Legate, viz. all that belonged to the Pope himself whose Vicar he was.

Upon the whole then it were to be wished, that the following Questions were, upon a due and careful Examination, resolv'd, (viz.)

1. Whether the Statute of 25 Hen. VIII. Cap. 21. has given the Archbishop of Canterbury for the time being a Power of conferring Degrees of all kinds?

2. Whether the Tax-Books, directed by that Statute to be drawn up, if they had been made according to the Direction there given, would have been good and effectual in Law, without any express Declaration in the said Act, that they should be so taken and accounted; and without any subsequent Act to confirm them?

3. If it be supposed that these Tax-Books, when made as the Act directs, would have been of the same Authority as the Act itself; whether, when no such Tax-Books can be produced, and no legal Proof can be given that any such Books were ever made, it may not fairly be pleaded, *Nul tel Record?*

4. If any authentick Tax-Book be now extant; whether every Faculty for a Degree granted by the Archbishop which is there rated at 4*l.* ought not be confirmed under the Broad Seal, and introlled in Chancery?

5. Whether, if the Archbishop had constantly exercised this Power of conferring Degrees ever since the Date of the said Act, such Degrees would be esteemed due Qualifications in Law, where Degrees were required to qualify Persons for any Dignity, Benefice, or Preferment, by Act of Parliament, Canon of the Synod, Royal Charter, or Local Statute?

6. Whether it can be made to appear, by the Judgment of any Court, Opinion of any Lawyer, or History of the Fact, that the Framers of any Act, Canon, Charter, or other legal Instrument whatever, when they mention Degrees, did, or could, mean any other Degrees, but what were taken in some University?

7. Whether any Instance can be shewn, where an Archbishop did conferr a Degree by Faculty, from the Revvour of the Act before mentioned to the time when the Charter of Manchester-College was granted?

8. Supposing Degrees were conferred during that time, whether any Archbishop, by whom they were conferred, did look upon them as legal Qualifications, and made use of his Power to that special End and Purpose.

9. Whether

9. Whether any *Custom* that has lately obtained, and of which no certain Footsteps are to be found for near a hundred Years together, since the making of the Act, can be sufficient to establish a Claim, which hath no other Foundation but a *Tax-Book*, said, without any Proof, to be confirmed by Authority of Parliament?

As to the Pope's power of conferring Degrees, from whence the Archbishop's is derived; it is the Opinion of some eminent Canonists, that this Power extended no farther than the Patrimony of St. Peter.

Then it is certain, that several Decrees and Orders have been made by Popes, and Councils call'd by Popes, in favour of University Degrees, and never any, (that I have heard of) which put the Degrees given by the Pope's Authority alone upon the same Foot with those that were taken in some University.

But, whatever the Pope's Power in this respect was, it was never submitted to, or acknowledged, or (as far as I can learn) ever exercised, or pretended to, here in England; much less called in to support any Pretensions to Ecclesiastical Preferment before 25 Hen. VIII. On the contrary, what was decreed in Parliament in Hen. IV's time concerning the University of Oxford, viz. "That the Pope's Bull should not impeach, or alter the Right, or Custom, of any thing concerning that University; this I take to have been always the Law with relation to both Universities.

The only Questions then, which arise from hence, relating to the Case before us, are,

1. Whether a Faculty for a Degree be one of those Faculties or Dispensations, which were wont and accustomed to be had at the See of Rome, or by Authority thereof, before the making of the aforesaid Statute?

2. Whether a Degree given by the Pope, or by any Authority of the See of Rome, was taken and reputed here in England, as a good and effectual Qualification in Law for any Ecclesiastical Dignity or Benefice, which Graduates only were capable of, before the Reformation took place?

Which way all these Questions ought to be determined, I will not take upon me to say: But, from what has been offered upon the whole Subject, I may venture to conclude: that Degrees conferred by the Archbishop of Canterbury, (whatever respect they may claim upon account of his Grace's favour in granting them) cannot be accepted and admitted to be good and effectual in Law, and as beneficial to the Persons obtaining the same, as the like Degrees would be, if taken in one of our Universities.

For these Things may now be affirmed with some Assurance: viz. That many extraordinary Privileges and Favours have been granted by Popes, Princes, and General Councils abroad, and by Kings, Parliaments, and Convocations in England, to University Graduates, exclusive of all other. E. G. Pluralites, Unions, all manner of Ecclesiastical Dignities and Benefices, exercise of Ecclesiastical Jurisdiction, admission to Orders, liberty to practise Physick, distinction of Apparel, both in the Performance of Divine Service, and in common Habit, &c.

That

Rot. Parl. 13.
Hen. IV. n.
15, 16, 17.
Cook's Inst.
Part. 4. p.
228.

That these peculiar Favours have been granted by a great number, and variety of publick Acts, made at different times, during the Space of three hundred Years; without the least saving, or mention, in any of them, of any other Degrees but such as were taken in some University;

And that there never was any publick Act, Decree, Order, or Rule made, by the Authority either of Church, or State, in any Kingdom, Popish, or Protestant, which gave the least Favour, or Countenance, to Degrees conferred any other way than by Universities.

It is therefore humbly hoped, that an old Popish abuse, long since exploded, and banish'd from other Parts of Europe, will not now be adjudged a convenient and necessary practice here in England, warranted by the Laws of this Realm, and a part of our Reformed Constitution.

F I N I S.

